

SINNATAMBY v. VEERAKATTI.

P. C., Batticaloa, 15,037.

1901.

January 16  
and 19.

*Compensation to accused—Criminal Procedure Code, s. 437—False charge of robbery—Applicability of s. 437 to non-summary inquiries.*

*Per BROWNE, A.J.*—The provisions of section 437 of the Criminal Procedure Code apply to non-summary inquiries as well as to summary trials.

If a creditor seeks to enforce his claim of money due to him by wresting from his debtor his umbrella and seizing his shawl in such a manner as to take money from, or to cause it to fall from a knot in it, he is liable to be convicted of robbery.

**I**N this case of theft the Police Magistrate acquitted the accused and called upon the complainant to show cause why he should not be ordered to pay Rs. 25 as compensation for causing the rural constable to arrest the accused, when there was no sufficient ground for causing such arrest.

The complainant explained that the accused did in fact snatch the articles in question from him, and that the charge of robbery was true, no less than the charge of assault.

The Police Magistrate ordered the complainant, under section 437 of the Criminal Procedure Code, to pay to the accused Rs. 25 as compensation, and in default to undergo thirty days' simple imprisonment, holding that the charge of robbery was tacked on to the assault that really took place in order to have the accused arrested by the police.

The complainant appealed.

*H. Jayawardena*, for appellants.

*Cur. adv. vult.*

19th January, 1901. BROWNE, A.J.—

The decision of this Court in 5,632, P. C., Point Pedro, is authority that the accused who, to enforce his claim from complainant of moneys due him, wrested complainant's umbrella

from him and so held complainant's shawl as either to take money from, or to cause it to fall from, a knot in it, was liable to be convicted of robbery; and hence that his charge was not exaggerated.

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BROWNE, A.J.

It was contended that the words in section 437 of the Criminal Procedure Code, "the Magistrate which (*sic*) takes cognizance of the case," would make its provisions applicable only to summary trials and not to non-summary inquiries; but I would, as at present advised, consider that its provisions, like those of section 440, would be applicable to both classes of prosecutions.

And when section 437 authorizes payment of compensation not exceeding Rs. 25, I see no reason why a complainant should be ordered to pay that sum in every such case, or any more than would at the rate of his average earnings fairly compensate the accused for any loss of time or money he had incurred by his arrest and in his defence.

Order to pay to accused compensation is set aside.

