

Present : De Sampayo J.

THAMPU v. NAGAN.

188—P. C. Jaffna, 21,869.

Penal Code, s. 180—False information—Information must be voluntarily given—Answer to questions put by headman when inquiring into a crime.

Giving false information under section 180 of the Penal Code implies volunteering a statement to a public servant, and does not cover a case where answers are given to questions put by some authority at the happening of some event.

THE facts are set out in the judgment.

J. Joseph, for the accused, appellant.—The accused did not make any charge against any one. He was questioned by the headman, and it was in answer that he made the statement in question. He cannot be convicted under section 180 of the Penal Code in the circumstances. Counsel cited *Gour, vol. I., p. 876*.

May 7, 1923. DE SAMPAYO J.—

I think I must interfere in this case. The charge against the accused in this case arose under the circumstances. A man named Kathiran appeared to have been stabbed by somebody, and was lying bleeding. The headman was at once informed, and he went to the spot. The injured man said that it was one Velu who stabbed him, and added that one Sinnetamby and M. Nagan saw the stabbing. The headman then questioned these two, whose names were mentioned by the injured man. The accused is M. Nagan, and in answer to the inquiries of the headman stated that it was Velu who stabbed Kathiran, but when the police took up the matter, M. Nagan withdrew his statement to the headman and said that the statement was false. He repeated the denial in the Police Court when Kathiran charged Velu. Now M. Nagan is charged in the present case under section 180 of the Penal Code with having given to a public servant, namely, the headman, information which he knew to be false, intending thereby to cause the public servant to use his lawful power to the injury or annoyance of Velu. The accused appears to have been without any legal assistance, and he pleaded guilty, and added : " I said what the complainant told me to say. It was false." Thereupon, the Police Magistrate convicted the accused, and sentenced him to two months' rigorous imprisonment. Under these circumstances the sentence appears to me to

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be unduly severe. But there is a still deeper objection to this conviction. In my opinion, giving information under section 180 implies volunteering a statement to a public servant, and does not cover a case where answers are given to questions put by some authority at the happening of some event. In this case it is quite clear, more especially when the evidence of the police headman in the previous case is considered, that the accused did not come forward and volunteer any information to the headman, but answered questions put to him by the headman in the course of his inquiries. Whatever other offence the accused may be said to have committed, I do not think he, at all events, committed the offence under section 180 of the Penal Code, under which he has now been charged. I am supported in my view of the scope of section 180 by the comment made by Dr. Gour at page 876 of Volume I. of his book on the Indian Penal Code. Although the accused purported to plead guilty, I am bound to take notice of the point of law which I have just indicated and to set aside the conviction. I accordingly set aside the conviction and acquit the accused.

Set aside.

