

1895.  
September 18.

ANTHONY v. JOHANNES *et al.*

P. C., Chilaw, No. 8,460.

*Crown costs—Compensation—Necessary findings in order—Complaint consisting of several charges.*

When a Magistrate condemns a complainant in Crown costs or compensation on a complaint containing charges for more than one offence, he must find in regard to which of the offences the complaint was frivolous or vexatious.

An order in these terms : "I order complainant to pay a sum of Rs. 5 as Crown costs and Rs. 2.50 each as compensation to the accused. In default of payment I sentence the complainant to 'one month's simple imprisonment'"—is defective; in that it omits to state whether it is in default of the payment of compensation or of Crown costs that imprisonment is awarded.

THE complainant charged the accused, seven in number, with theft, voluntarily causing hurt, criminal trespass, and certain other offences. The Police Magistrate found the case to be "entirely false and frivolous," and in acquitting and discharging the accused made order for Crown costs and compensation as stated above. The complainant appealed.

Weinman, for appellant.

18th September, 1895. WITHERS, J.—

The complaint contains as many as eight different offences under the Code. If the complaint was frivolous or vexatious in regard to each of the offences of which the accused was charged or some one or more of them, the Magistrate should so find, and that part of the judgment which directs the complainant to pay both compensation for the accused and costs for the Crown is defective for omitting to state whether it is in default of the payment of compensation or default of payment of Crown costs that the Magistrate awards imprisonment. I presume imprisonment was awarded for default, if any, of payment of compensation, because under Ordinance No. 22 of 1890 fourteen days are the limit of imprisonment for the default of payment of Crown costs. This omission is a defect in the order, which must be amended. When that has been done the order will hold good. Counsel has not satisfied me that the order is substantially a wrong one.

From that part of the order which awards Crown costs there is really no right to appeal, the order having been made in a case coming within the scope of chapter XIX. of Ordinance No. 22 of 1890.