

1925.

Present : Jayewardene A.J.

BANDARAGE APPUHAMY *v.* ROMIEL *et al.*

201—P. C. Trincomalee, 6,045.

*Village Tribunal—Jurisdiction—Offence of voluntarily causing hurt—
More properly triable by Police Court—Powers of Government
Agent—Ordinance No. 8 of 1924, ss. 55, 64, and 66.*

A Village Tribunal has jurisdiction under section 55 of Ordinance No. 8 of 1924 to try all offences under section 312 of the Penal Code, without qualification.

Where the offence is one which may be more appropriately tried by the Police Court, it is open to the complainant to appeal to the Attorney-General or the Government Agent to exercise the powers conferred on them under section 64 of the Ordinance.

A PPEAL by the complainant from an order by the Police Magistrate of Trincomalee referring him to the Village Tribunal.

Rajakarier, for appellant.

May 6, 1925. JAYEWARDENE A.J.—

This is an appeal from an order referring the complainant to the Village Tribunal. The complainant charged the accused with causing hurt, an offence under section 312 of the Penal Code and

punishable under section 314 of the same Code. After hearing the complainant's evidence, the learned Magistrate referred him to the Village Tribunal. The complainant appeals, and it is contended for him that the hurt caused is of such a nature that the accused cannot be adequately punished by the imposition of a fine of Rs. 20—the maximum fine a Village Tribunal can impose. In addressing that argument to this Court, learned counsel had evidently overlooked the fact that "The Village Communities Ordinance, No. 24 of 1889," which regulated the powers of Village Tribunals in civil and criminal cases has been repealed by one passed last year, viz., Ordinance No. 9 of 1924. Under the repealed Ordinance Village Tribunals were given the power to try certain offences among them, the offence of "voluntarily causing hurt as defined by section 312 of the Ceylon Penal Code whenever the offence is of such a nature that it may be adequately punished by no higher punishment than a fine of twenty rupees, or in default of payment by rigorous imprisonment for two weeks "

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Under the new Ordinance, section 55, a Village Tribunal has jurisdiction to try "all offences enumerated in the schedule to this Ordinance" and the qualifying words to be found in the repealed Ordinance have not been re-enacted.

An offence under section 312 of the Penal Code is one of the offences enumerated in the schedule. Offences under section 312 are therefore offences within the jurisdiction of a Village Tribunal and section 62 of the Ordinance requires that if in any case instituted before a Court, civil or criminal, it shall appear at any stage of the proceedings that the case is one within the jurisdiction of a Village Tribunal, the Court shall stop further proceedings and refer the parties to the Village Tribunal. But the Ordinance (section 64) authorizes the Attorney-General, the Solicitor-General, or a Government Agent in certain cases to direct any offence which, but for the provisions of this Ordinance, would be triable by a Police Court, to be tried before a Police Court if such a trial is more appropriate. A Village Tribunal itself is given the right to report to the Government Agent cases of assault which in its opinion cannot be adequately punished by any penalty within the powers of the Tribunal, and all cases, criminal and civil, that might more appropriately be tried before a higher Court. The Government Agent is then empowered to exercise the powers vested in him under section 64 referred to above. The new Ordinance gives a Village Tribunal jurisdiction to try cases under section 312 without qualification, subject, however, to the right conferred on the Attorney-General, the Solicitor-General, or a Government Agent under section 64 of the Ordinance, and to the right of the Village Tribunal itself to report to the Government Agent under section 66.

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When the case goes before the Village Tribunal the complainant can appeal to the Attorney-General, the Solicitor-General, or the Government Agent, to exercise the powers conferred by section 64, which I have no doubt the authority appealed to would do, if satisfied that the offence is one which cannot be adequately punished or appropriately tried by a Village Tribunal.

Therefore, whatever powers this Court may have had to interfere with an order of this kind under the repealed Ordinance, the new Ordinance has indicated a procedure which prevents this Court from exercising that jurisdiction any longer. The offence complained of is one clearly within the jurisdiction of a Village Tribunal, and the Police Magistrate was bound under section 62 to refer the complainant to the Village Tribunal if there was one which had jurisdiction to take cognizance of the offence. The appeal must therefore be dismissed.

Appeal dismissed.

