

PUNCHI BANDA *v.* FERNANDO.

1900.

June 12.

*Additional P. C., Ratnapura, 5,864.*

*Appeal—Criminal Procedure Code, s. 17 (2) and s. 335 (1)—Sentence by Police Court of one month's imprisonment on each of two counts.*

An appeal lies from a sentence imposed by a Police Court of one month's imprisonment on each of two counts.

THE accused was convicted by the Police Magistrate under section 454 of the Penal Code of insulting the complainant so as to make him commit a breach of the peace, and under section 343 of using criminal force, and the court sentenced him for each of these offences to a fine of Rs. 25, or in default to six weeks' rigorous imprisonment, so that in the aggregate he stood sentenced of a fine of Rs. 50.

He appealed.

*H. Jayawardena*, for respondent, objected that no appeal lay.

*Sampayo*, for appellant, referred to *1 C. L. R. 10* and Criminal Procedure Code, 1883, section 405 and section 18.

12th June, 1900. BROWNE, A.J.—

Section 405 of the old Criminal Procedure Code precluded appeal from a Police Court "in cases in which such Court passes "a sentence of imprisonment not exceeding one month, or fine not "exceeding Rs. 25," but section 18 directed that "for the purpose "of appeal aggregate sentences passed thereunder in case of con- "victions for several offences at one trial should be deemed to be "a single sentence." And it was held (*1 C. L. R. 10*) that appeal lay from a conviction and a sentence of one month's imprisonment on each of two counts. The new Procedure Code re-enacts in section 17 (2) the proviso of the old section 18, and therefore there is here a sentence to a fine exceeding Rs. 25, which takes the case out of the preclusion of section 335 (1) (g).

I hold therefore that appeal lies. [The case was argued and decided on the merits also.]