

1895.
Sept. 25.

DAWSON v. PERERA.

Additional P. C., Colombo, 3,866.

Appeal where accused had pleaded guilty—Plea of guilty—Criminal Procedure Code, ss. 220, 229, and 403—Judgment—Criminal Procedure Code, s. 372.

Where an accused appeared to summons, and the Police Magistrate explained to him the particulars of the offence, and then recorded as follows :—“ He pleads guilty. I accept the admission of the accused. “ He is fined Rs. 5 ”—

Held, that this was irregular, the proper course under section 220 of the Criminal Procedure Code being to record the admission of an accused party, as nearly as possible, in the words used by him.

In the event of a conviction in the Police Court, the requirements of section 372 of the Criminal Procedure Code, as to specifying the offence of which, and the section of the law under which, the accused is convicted, must be conformed to.

THE accused was charged with continuing a kraal in the Panaduré lake, known as Panaduré Eliya, so as to impede the convenient navigation thereof, in breach of sub-section 12 of section 94 of Ordinance No. 10 of 1861. He appeared to summons, and the Police Magistrate then made the following record :—“ Particulars of the offence explained to the accused. He pleads “ guilty. I accept the admission of the accused. He is fined “ Rs. 5.”

The accused appealed.

Pereira, for accused appellant. The proceedings are irregular.

[BONSER, C.J.—The accused had no right to appeal as he had pleaded guilty.] A plea of guilty cannot now be recorded in the Police Court. Section 403 of the Criminal Procedure Code, no doubt, provides that when an accused person has pleaded guilty, and been convicted by a District or Police Court on such plea, there shall be no appeal, but so far as Police Courts are concerned, the plea here referred to is the plea under section 229. That section has, however, been repealed, and has not been re-enacted by Ordinance No. 22 of 1890; so that a plea of guilty is not a plea now admissible in summary trials before Police Courts. In a case like this, the only section under which it is now open to a Police Magistrate to take steps is section 220 (Ordinance No. 22 of 1890), but under that section when an accused person admits the commission of an offence, such admission must be recorded, as nearly as possible, in the words used by him, and then the Police Magistrate might convict him. There is no provision in the Code that against such a conviction there should be no appeal. In support, then, of the appeal, it is submitted that there is no record of what the accused said when questioned under section 229, nor of any formal conviction. The accused gives in his petition of appeal the exact statement he made. If that was the statement, it is clear that it did not amount to an admission of the offence, and he could not be convicted thereon.

25th September, 1895. BONSER, C.J.—

[After setting forth the charge.] The matter came up before Mr. de Saram, the Itinerating Police Magistrate, but he did not, as he is required to do by law, examine the complainant, but issued summons forthwith. Defendant appeared, and all that is recorded is this :—

“ Particulars of the offence explained to the accused. He pleads “ guilty.” Then the judgment : “ I accept the admission of the “ accused. He is fined Ra. 5.”

The proceedings were irregular. Section 220, which has been substituted by Ordinance No. 22 of 1890 for the old section 229 of the Criminal Procedure Code, provides that the accused is to be asked if he has any cause to show why he should not be convicted, and that if he admits that he committed the offence of which he is accused, his admission shall be recorded, as nearly as possible, in the words used by him. The Magistrate did not record the admission as nearly as possible in the words used by the defendant, for he has merely recorded that “ he pleads guilty.” Now, the defendant in his petition of appeal says, that what really happened

1895. was this. He said : " I did make a kraal, but I was justified in
BONNER, C.J. doing it by long custom." That is not a plea of guilty, and, if
he did say that, the Magistrate ought to have duly recorded the
statement.

I notice a further irregularity : that the judgment does not
conform to the requirements of section 372 of the Criminal
Procedure Code. It does not specify the offence of which, or
the section of the law under which, the accused was convicted,
and, therefore, it seems to me, in view of these irregularities, that
the case should go back to be re-heard.

