

1935

Present : Maartensz J.

THE KING v. PARAMANPALAM

116—D. C. (Crim.) Jaffna, 3,805.

Village Committee—Obstructing Chairman in the discharge of his duty—Power of Chairman to fine a member—Committee must be in judicial session—Details of charge—Manner of obstruction—Penal Code, s. 183.

The Chairman of a Village Committee has no jurisdiction to frame a charge against a person for obstructing proceedings, under section 51 of the Village Committee Ordinance unless the Committee is in session as a judicial body, after the members had observed certain formalities.

In a charge of obstructing a public servant in the discharge of his public functions, it is essential to set out the manner in which the obstruction was caused.

A PPEAL from a conviction by the District Judge of Jaffna.

H. V. Perera (with him Nadesan), for the accused, appellant.

E. B. Wickremanayake, Acting C.C., for the Crown, respondent.

April 8, 1935. MAARTENSZ J.—

The accused in this case was charged before the District Court of Jaffna with (1) voluntarily causing hurt to one Subramaniam, Chairman, Village Committee, Achchuvely, a public servant, in the discharge of his duty as such public servant, an offence punishable under section 323 of the Ceylon Penal Code; (2) voluntarily obstructing the said Subramaniam, a public servant, in the discharge of his public functions, an offence punishable under section 183 of the Ceylon Penal Code; (3) voluntarily causing hurt to the said Subramaniam, an offence punishable under section 314 of the Ceylon Penal Code. The accused was convicted under the second and third charges. He appeals from this conviction both on the law and on the facts.

I see no reason to dissent from the finding of the learned District Judge that the accused conducted himself in the manner described by the witnesses for the prosecution at a meeting of the Village Committee held on December 16, 1933, held to consider the budget proposals for 1934. According to the finding the meeting began at 10 A.M. and continued till 3.30 P.M. Towards the end of the meeting the accused wanted to reopen the vote already passed in respect of the Achchuvely lanes. The Chairman refused to reopen the proceedings on the ground that this item had already been disposed of and all the available money appropriated. The accused disagreed and was asked by the Chairman to sit down. The accused replied "are you the rascal (or fellow) to ask me to sit down?" and went on abusing the Chairman in Tamil. The accused then left his seat and advanced towards the Chairman who was sitting on a raised platform. When the accused came near the dock the Chairman asked him to stop and took a paper to frame a charge against him under section 51 of Ordinance No. 9 of 1924, which empowers a Village Tribunal or Village Committee to order a person who misconducts himself while a Village Tribunal or Village Committee is sitting to pay a fine not exceeding Rs. 10 and in default of payment to suffer imprisonment of either description in a period not exceeding seven days. The accused then rushed up to the Chairman who was seated on a chair and pushed him down, with the result that the Chairman struck his head against the wall and sustained injuries of a minor nature.

The accused was acquitted on the first charge as the Chairman had at the moment no jurisdiction to frame a charge against the accused under section 51 of the Village Committees Ordinance, the Committee not being then in session as a judicial body. Section 44 of the Ordinance enacts that "where any rules shall have been duly made by the inhabitants or Village Committee of any subdivision and no Village Tribunal shall have been established for such subdivision, the Village Committee for the time being shall be a court for the trial of breaches of such rules and for such other matters as are hereinafter provided". A Village Committee is not *ipso facto* a judicial body. The rules providing the procedure for the exercise by a Village Committee of the powers vested in it by section 44 are contained in Part V. of the Rules made by His Excellency the Governor in the exercise of the powers vested in him by section 95 of the Ordinance, published in the *Government Gazette*

No. 7,568 of February 18, 1927. In the case of a Village Committee every Committeeman engaged in the hearing of a trial has by Rule 16A to take and subscribe an oath in the form prescribed in Schedule I. to the Rules before the commencement of the trial. It appears from these Rules that before a Village Tribunal or Village Committee goes into session as a judicial body certain formalities have to be observed. These formalities were not observed before the meeting of December 16, 1933. The accused was therefore rightly acquitted of causing hurt to the Chairman in the discharge of his duties as a public servant.

It was submitted that the accused could not be convicted on the second charge as it was defective as it did not set out the manner in which Mr. Subramaniam was obstructed by the accused in the discharge of his functions. The evidence of Mr. Subramaniam was read to me and I find that he has not stated precisely what acts of the accused constituted the obstruction; in what way the functions he was discharging were obstructed or what functions he was discharging at the moment. I think this defect in the evidence vitiates the conviction of the accused on the second charge. It was not for the District Judge to determine what the acts were or what functions were interrupted in the circumstances of this case where the accused himself was a member of the Village Committee which was in session and who as such had a right to address the chair. It is unnecessary for me to decide whether the Chairman of a Village Committee is a public servant or not. I accordingly acquit the accused on the second count of the indictment.

I affirm the conviction under the third charge. I see no reason to interfere with the sentence passed by the District Judge.

The appeal of the accused from the conviction on the second charge is allowed, and the appeal from the conviction on the third charge is dismissed.

Varied.
