

SAMARANAYAKA v. ELORIS.

1903.
January 16.

P. C., Colombo, No. A.

*Jurisdiction—Criminal trespass, assault, criminal intimidation, and mischief—
Order of Police Magistrate referring complainant to the Gansabhawa
Court.*

A person entering the house of another and rushing at him in a threatening manner and throwing stones at his house and causing damages to the tiles and glass articles to the extent of about Rs. 20 is *prima facie* liable for criminal trespass, assault, criminal intimidation, and mischief.

It is evasion of jurisdiction on the part of a Police Magistrate to refer such a case to the Gansabhawa Court.

IN this case four persons were charged with house trespass, criminal intimidation, and mischief, under sections 428, 434, and 409 of the Penal Code.

The Police Magistrate, Mr. R. B. Hellings, heard the complainant, who gave evidence as follows:—

“ I live on the Model Farm on this side of the railway. I charge (1) Eloris, (2) Sinno Appu, (3) Podi Sinno, (4) Charles. On the 21st noon they came to my bungalow and asked about two cows which I had caught for trespass earlier that day and handed over to the police. I told accused so. Accused had heard from the sergeant that they had to pay Rs. 2.50 per head. They asked me to release the cows without payment. I told them to settle with the sergeant. They rushed at me to assault me. I ran into a room and locked my door. I heard glass falling in the hall and stones falling on the roof and in the house. Two men came and told me accused had gone. I found a lamp broken, four tumblers, and three or four bottles broken, value about Rs. 15; 200 or 300 tiles were broken, at about Rs. 2.50 per 100 ”.

Thereupon the Police Magistrate made order as follows:—

“ Gansabhawa jurisdiction. Complainant referred to that Court ”.

The Attorney-General appealed.

Rāmanāthan, S.-G., for appellant,—

The Magistrate has wrongly evaded jurisdiction. If he believes the complainant, the offences of assault, criminal intimidation, criminal trespass, and mischief have been proved and are deserving of sentences much higher than a Village Tribunal can give. The Magistrate should be directed to hear and decide the case.

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16th January, 1903. WENDT, J.—

The Attorney-General appeals in this case against an order of the Police Magistrate holding that the matter complained of fell within the exclusive jurisdiction of the Gansabhawa, and the question is whether he was right in so holding. Whatever might have been the result upon a full inquiry, it seems to me that the Magistrate was wrong upon the materials as they now stand.

The complainant had impounded some of the accused's cattle and, as he lawfully might, handed them over to the police. The accused came to the complainant's house, having been told by the sergeant that Rs. 2.50 was payable in respect of each of the animals. The complainant refused to release the cattle without any payment. Upon his refusal the accused rushed at him in a threatening manner, and he ran into a room and locked himself in. The accused then destroyed a lamp and some tumblers and bottles which were in the house, valued at Rs. 15, and proceeded to throw stones on the roof, whereby 200 or 300 tiles were broken, worth Rs. 2.50 a hundred. This appears to my mind a much more serious offence than the Legislature intended to include under the head "Criminal" in section 28 of Ordinance No. 24 of 1889.

It would appear *prima facie* that the offences of assault, criminal intimidation, criminal trespass, and mischief were possibly involved in the acts of the accused—offences usually punished with sentences exceeding the Rs. 20 fine or two weeks' imprisonment which limit the punitive powers of Village Tribunals.

I set aside the order appealed against and send the case back to be dealt with according to law.

