

1925.

[IN REVISION.]

Present: Ennis A.C.J.

JAYATILLEKE v. UDIYA.

P. C. Kegalla, 4,187.

*Security for good behaviour—Information on oath—Form of summons—
Truth of information—Criminal Procedure Code, s. 63.*

The information upon which proceedings are initiated under section 83 of the Criminal Procedure Code, to bind over a person to be of good behaviour, must be given on oath; and the summons issued in pursuance thereof must contain the substance of the information.

When a person appears in compliance with the summons, the Magistrate should proceed to inquire into the truth of the information before he makes an order.

A PPLICATION by the Solicitor-General to revise proceedings.

J. E. M. Obeyesekere, C.C., in support.

May 8, 1925. ENNIS A.C.J.—

This is an application by the Solicitor-General to revise certain proceedings. The application is made in the interests of the accused, and there is no occasion to serve him with notice. It appears that the accused is in jail in default of entering into a bond to be of good behaviour. The order was made under section 83 of the Criminal Procedure Code. The information upon which the summons was issued does not appear to have been adequate for the purpose of the issue of the summons. Moreover, it is desirable that information of this character should be made upon oath, even although the Code does not expressly say so. The summons, however, should have contained a statement of the substance of the information on which the summons was issued. Here the charge does not comply with the requirement. Finally, under section 87 of the Criminal Procedure Code when a person appears in compliance with the summons, the Magistrate is required to proceed to inquire into the truth of the information. That does not appear to have been done in this case. No inquiry of any kind was made. The accused was called upon to show cause, and when he stated that he had no cause to show the order was made. In these circumstances I set aside the order, and direct that the accused be released.

Set aside.