

THE QUEEN v. HINNIYA.

D. C. (Criminal), Galle, 12,298.

1896.
December 7.

Highway robbery—Attempting to stab at the time of committing it—Jurisdiction of District Court—Ceylon Penal Code, s. 383.

Where in a prosecution in the District Court for highway robbery it appeared that in attempting to commit the robbery the accused drew a knife and attempted to stab the complainant, *held*, that the case fell under section 383 of the Ceylon Penal Code, and was beyond the jurisdiction of the District Court.

THE facts of the case appear in the judgment.

Dornhorst, for appellant.

Dias, C.C., for respondent.

7th December, 1896. BONSER, C.J.—

The appellant was tried and convicted of highway robbery and sentenced to one year's rigorous imprisonment under section 380 of the Penal Code. The plaintiff alleged an offence under section 383, stating that the appellant drew a knife upon the complainant at the time of committing the robbery. For the prosecution the complainant himself and a witness were called, and both swore that the appellant drew a knife and attempted to stab the complainant. The District Judge finds as a fact that the appellant drew a knife on the complainant.

That being so the District Court had no jurisdiction to deal with this case. If the facts are as proved no punishment can be given of less than seven years' rigorous imprisonment under section 383. Therefore this conviction must be quashed and the case ordered to be committed for trial at the next ensuing criminal sessions of the Supreme Court to be holden at Colombo, subject to any application which the appellant may make if he thinks the transfer would prejudice him in any way, when the Court will listen to what he has to say.