

1929

Present : Drieberg J.

UDAYAR, POINT PEDRO *v.* ALFRED.

79—P. C. *Point Pedro*, 7,106.

*Obscene language—Charge of using obscene words—Actual words—Penal Code, s. 287.*

A charge under section 287 of the Penal Code should set out the actual obscene words alleged to have been used.

**A** PPEAL from a conviction by the Police Magistrate of Point Pedro.

*Subramaniam*, for the accused, appellant.

March 6, 1929. DRIEBERG J.—

The accused was charged with having used obscene words in the Customs grain shed at Point Pedro, then used as a Polling Booth, to the annoyance of the Presiding Officer and others assembled, an offence punishable under section 287 of the Penal Code. The accused was brought before the Court, and, on the charge set out above being read to him he pleaded guilty. The Magistrate has sentenced him to one month's rigorous imprisonment, and he says that he has taken a serious view of the offence, which he says is aggravated by the fact that it was committed in the presence of officials engaged in public business. This reason, so far as it goes, is a good one, but on the other hand nowhere in these proceedings is there to be found the obscene words which the accused is alleged to have uttered. It is absolutely necessary that a charge under section 287 should set out the obscene words used. In this case it becomes all the more necessary to know what the words the accused was charged with using were, for though the accused may have admitted using words that were obscene, they might not have been as offensive as those which the prosecution alleges he uttered. Such a circumstance as this would considerably affect the sentence which has to be imposed, but as I have pointed out, quite apart from this, the charge is defective and the proceedings consequent thereon are bad.

I set aside the proceedings and send the case back for a further trial on a charge in which the words alleged to have been used by the accused should be set out in full.

*Sent back.*