

1896.

July 1 and 8.

## PERERA v. GEERIS et al.

P. C., Colombo, 5,733.

*The Oaths Ordinance, 1895, s. 12—Witness giving false evidence, how to be dealt with—Proceeding under the Ordinance by successor of Magistrate before whom false evidence had been given.*

When a Magistrate is of opinion that a witness has given false evidence in a serious case, proceedings should be instituted against the witness for perjury; but when the false evidence is given in a trivial case, and is of comparatively little consequence, then the provisions of Ordinance No. 9 of 1895 may be availed of. The witness must here be informed of the charge against him, and given an opportunity to explain what seems to the Magistrate to be false.

When a witness gives false evidence before a Magistrate, his successor in office cannot proceed against such witness under section 12 of "The Oaths Ordinance, 1895."

IN this case the accused was charged with the theft of a bull. Two witnesses, Miguel and Jeelis, who were called for the prosecution, said that they saw the accused removing the bull. At the close of the case the Magistrate acquitted the accused, and proceeded to record thus: "Jeelis and Miguel have, in my opinion, given false evidence. I fine them each Rs. 20, and in default one month's rigorous imprisonment." He then went on to give his reasons for his opinion as to the two witnesses. On appeal by Jeelis and Miguel on the finding against them,

*Dornhorst*, for appellants.

*Cur. adv. vult.*

8th July, 1896. LAWRIE, J.—

When a Magistrate is of opinion that a witness has given false evidence in a serious case, it is certainly my opinion that proceedings should be instituted against the witness for perjury, but when the false evidence is given in a trivial case and is of comparatively little consequence, then the provisions of the Ordinance No. 9 of 1895 may be availed of, but the witness must be informed of the charge against him, and he must have an opportunity given to him to explain what seems to the Magistrate to be false. I am obliged to set aside the conviction and fine. I would remit to the Police Magistrate to send for the witness and to explain the charge; but the Magistrate is no longer in that Court, and his successor cannot punish under the Ordinance No. 9 of 1895 for false evidence given before another Magistrate.