

1896.  
October 19.

SEYATU v. APPUWA.

P. C., Gampola, 21,987.

*Sentence, inequality of—Plea of guilty—Claiming to be tried.*

An accused person who claims to be tried and is convicted ought not to be placed in a worse position than one who pleads guilty. Where, therefore, some of the accused in a Police Court case pleaded guilty to the charge against them and were fined Rs. 5 each, and the other accused claimed to be tried, were convicted, and sentenced to one month's rigorous imprisonment each, the Supreme Court reduced the sentence on the latter to one of a fine of Rs. 5.

**T**HE facts of the case appear in the judgment.

19th October, 1896. BONSER, C.J.—

In this case five people were charged with unlawfully gaming with dice, under section 4 of Ordinance No. 17 of 1889. The first, second, and third accused pleaded guilty and were convicted and fined Rs. 5 each.

The fourth and fifth accused said that they were not guilty and claimed to be tried. The Magistrate, after hearing evidence, found them guilty, and sentenced them to one month's rigorous imprisonment. If a sentence of Rs. 5 was considered sufficient punishment for the other men, it appears to me from the evidence that it is equally sufficient for the appellants. It would seem as if the Magistrate punished the appellants more severely because they claimed to be tried. I reduce the sentence to a fine of Rs. 5. A man ought not to be in a worse position because he claims to be tried.

I notice that the Magistrate has given no reasons for the finding or sentence.