

LIENARD v. ABDUL RAHIM.

*P. C., Batticaloa, 13,801.*

1899.

July 28.

*Criminal Procedure Code, s. 340 (2)—Matter of law stated in petition of appeal—Right of counsel to address Court on other points.*

No point of law that is not contained in the petition of appeal preferred under section 340 (2) of the Criminal Procedure Code will be allowed to be argued in appeal.

THE accused was convicted of an offence under section 85 of the Police Ordinance, 1865, and sentenced to pay a fine of ten rupees. The Magistrate refused leave to appeal, and the petition of appeal, signed by the accused's proctor, certified that the matter of law set out in the petition was a fit question for adjudication by the Supreme Court.

*Tambyah*, for appellant, addressed the Court on points not stated in the petition of appeal.

*Cur. adv. vult.*

28th July, 1899. WITHERS, J.—

Appellant's counsel has addressed me at least on one point of law, which was a very fit question for adjudication, and I listened to him under the impression that it was contained in the petition of appeal. I find that that is not the case. We can only hear argument on matters of law stated in the petition of appeal (section 340 (2) of Criminal Procedure Code).

On reading the petition of appeal, I find that only one matter of law is mentioned. That was hardly strong enough to bear the weight of a formal certificate. It amounted to this: the evidence recorded shows that the complainant was to blame rather than the accused. That is a question of fact rather than of law.