

SEADORIS v. LENERIS.

1901.
April 23.

C. R., Matara, 6,390.

Contempt of Court—Giving of false evidence—Civil Procedure Code, ss. 795, 800.

MONCREIFF, J.—An unsuccessful plaintiff whose evidence is not believed is not necessarily guilty of perjury; but whether his evidence is true or false, it was not intended that section 795 of the Civil Procedure Code (dealing with the summary punishment of contempts of Court) should apply to such cases.

AFTER dismissing plaintiff's case, the Commissioner (Mr. G. W. Woodhouse) recorded as follows:—

“ I find that the plaintiff in this case, A. B. S. Don Seadoris Appuhamy, did to-day make a statement before me, which is recited in the following minute:—

‘ Whereas you, the said Atale Bandaranaike Sapuachige Don Seadoris Appuhamy, have committed a contempt against the authority of this Court in that you did on 13th March, 1901, wilfully make a false statement in the course of the proceedings held in C. R., Matara, case 6,390, by stating ‘ that the defendant received Rs. 25 from me on the 16th October as an advance on the condition that he would transfer to me certain lands mentioned in the plaint,’ which statement you knew to be false, and thereby committed a contempt of this Court, punishable under section 800 of the Civil Procedure Code.’

“ That statement is utterly false, and the plaintiff knew it was false when he made it. I therefore find him guilty of wilfully making a false statement as contemplated by section 12 (1) of Ordinance No. 9 of 1895 in the course of these proceedings, and punish him for a contempt of Court in terms of section 800 of the Civil Procedure Code. I sentence him to a fine of Rs. 25, and in default to one month's rigorous imprisonment.”

Plaintiff appealed.

Bawa, for appellant.—It has been decided that giving false evidence is not a contempt of Court. The procedure provided under section 795 applies to persons guilty of gross insolence or to those who decline to answer reasonable questions, but not to persons giving false evidence (*Ramanathan, 1872-76, p. 109*). In that case, Cayley, C.J., laid down that false evidence is not a contempt of Court. Also *2 S. C. C. 8*. Besides, there is no proof that the evidence of plaintiff was false.

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In this case the Magistrate, at the conclusion of the case, punished the plaintiff for a contempt of Court under section 800 of the Civil Procedure Code, on the ground that he had brought himself within section 795 of the Code by swearing in the witness-box that the defendant had received from him Rs. 25 as advance for the purchase of certain property. The payment of the Rs. 25 was spoken to also by the police officer of Pitapola and the vel-vidane of the same place. But the Magistrate, upon what grounds I cannot make out, expressed his opinion that the police officer who gave evidence "is a disreputable character, who has been dismissed," and that the vel-vidane "appears to be no better." If the statement is correct, the grounds for it ought to have been expressed in clearer terms on the face of the record whether the view taken by the Magistrate as to the merits of the case is correct or not.

I feel convinced that this is not a case in which the plaintiff should have been proceeded against for a contempt of Court. There may be in evidence a certain standard of certainty which justifies a decision in a civil case, but that will not justify the assumption that the unsuccessful plaintiff, whose testimony is not believed, has committed perjury.

I think, moreover, that whether the plaintiff said what was true or not, the case was not one in which section 795 was meant to apply. The order of the Police Magistrate will be set aside.

