

Present: Mr. Justice Middleton.

1906.  
August 31.

PINHAMI ARATCHEI v. DINGIRIA.

P. C., Kandy, 6,451.

*Giving false information to public servant—Requisites of proof—Penal Code, s. 180.*

To sustain a charge under section 180 of the Ceylon Penal Code of giving false information to a public servant, it is not necessary that the public servant to whom false information is given should be induced to do anything or omit to do anything in consequence of such information, the gist of the offence being the intention or knowledge of the person supplying the information, and not what action may or may not be taken by the public servant to whom false information is given.

*Empress v. Budh Sen* (1) followed.

*In re Golam* (2) dissented from.

**A** PPEAL from a conviction under section 180 of the Penal Code. The facts and arguments sufficiently appear in the judgment.

*H. A. Jayewardene*, for the accused, appellant.

*Cur adv. vult.*

31st August, 1906. MIDDLETON J.—

This was an appeal from a conviction under section 180 of the Penal Code for giving information to a public servant knowing or believing it to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to do anything which such public servant ought not to do.

The accused having the authority of the real owner to sell an animal, took it to the headman to obtain a voucher, and represented that one Ukkuwa, who was with him, was the real owner.

The headman, suspecting something was wrong, refused to give the certificate. It was contended for accused that if the headman could have attested the cattle voucher without the real owner's presence there was no offence; further, that it was not shown that this was an act which the headman should not have done without the presence of the real owner.

Looking at the schedule Forms A and B to the Cattle Ordinance, No. 10 of 1898, it would seem that the signature of the seller or donor is required on Form A and that of the owner to Form B, permit for removal.

It seems to me therefore that it was necessary that the real owner should attend before the headman in order to sign the voucher.

(1) *I. L. R.* 13 *All.* 351.

(2) *I. L. R.* 14 *Cal.* 314.

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Two cases were cited by counsel from the Indian Law Reports showing that the Calcutta Court [*In re Golam* (1)] construed the corresponding section in the Indian Code as entire, and that it applied to those cases in which the public servant upon the information supplied to him was induced to do or omit to do something which might affect some third person, and which he would not have done if he had known the true state of things.

The Allahabad Court [*Empress v. Budh Sen* (2)], Straight J. and Edge C.J., however distinctly disagreed with the ruling of the Calcutta Court, and Straight J. thought the section contemplated as I clearly think it does, two intentions, and that the criminality contemplated by section 182, which is the same as our section 180, does not depend on what is done or omitted to be done by the public servant on such false information, but what was from the facts the reasonable intention to be inferred on the part of the person who gave the false information. Edge C.J., in agreeing, said: "The offence is giving information which the informant knows or believes to be false and his intention thereby to cause, or his believing or knowing it to be likely that he will thereby cause, the public servant .....to do.....anything which the said public servant ought not to do."

I have no hesitation in following the decision of the Allahabad Court for the reasons given by Straight J. as the right construction of the section.

In my opinion the false information was given by the accused that Ukkuwa was the real owner, intending that the headman should take his signature thereto on the voucher as the real owner and to act on that supposition, which he ought not to have done, and would not presumably have thought of doing, if the false information had not been given.

I uphold the conviction and dismiss the appeal.



(1) *I. L. P.* 14 *Cal.* 314.

(2) *I. L. R.* 13 *All.* 351.