

June 15, 1905*Present:* The Hon. Sir Charles P. Layard, Chief Justice.SERAPH *v.* KANDYAH.*P. C., Trincomalee, 2,347.**Falsely charging another before a police officer—Charge under s. 208—Penal Code, ss. 180 and 208.*

A person falsely charging another before a police officer with having committed an offence is punishable under section 208, and should not be charged under section 180. A Police Magistrate has no jurisdiction to try the offence.

To establish an offence under section 208 the prosecution should prove, besides the falsity of the charge, that the person who made that charge knew that there was no just or lawful ground for such a charge against the person falsely charged by him.

A PPEAL from a judgment of the Police Magistrate of Trincomalee.

H. A. Jayewardene, for the appellant.

June 15, 1905. LAYARD C.J.—

In this case the appellant has been convicted of giving false information with intent to cause a police sergeant to use his lawful power to the injury of another person under section 180 of the Penal Code. What the appellant did was to falsely charge to the police sergeant of Trincomalee a certain person with having committed an offence. That is an offence punishable under section 208 of the Penal Code, and it requires that the prosecution should prove, besides the falsity of the charge, that the person who made that charge knew that there was no just or lawful ground for such a charge against the person falsely charged by him.

It has been held in India in a similar case to this, wherein the accused made a charge to the police officer in which he specified the name of a person whom he charged with having committed an offence, that the accused committed an offence punishable under the Indian section similar to our section 208, and not an offence punishable under the Indian section similar to our section 180. The appellant therefore, in this case, has not committed the offence of which he has been convicted under section 180, and I am not in a position, even if I thought it desirable, to amend the conviction and find him guilty of an offence under section 208, because an offence under that section is only triable by the District Court, and the appellant in this case was summarily tried by the Magistrate. The conviction and sentence must be set aside, and the appellant acquitted and discharged.

Appeal allowed.