

1914.

Present : Pereira J.

ASSISTANT GOVERNMENT AGENT, KEGALLA, v.
PODI SINNO *et al.*

588—P. C. Kegalla, 18,092.

Judgment delivered six months after trial—Irregularity—Criminal Procedure Code, s. 190.

Where a Magistrate delivered his judgment and recorded his verdict more than six months after the close of the trial of a case,—

Held, that in view of the provision of section 190 of the Criminal Procedure Code, the delay could not be regarded as a mere innocuous irregularity.

THE facts appear from the judgment.

Elliott and Samarawickreme, for accused, appellant.*van Langenberg, K.C., S.-G.*, for respondent.*Cur. adv. vult.*

July 29, 1914. PEREIRA J.—

In this case the trial appears to have closed on the 1st December, 1913, but the Magistrate appears to have delivered his judgment and recorded his verdict on the 9th June, 1914. Under section 190 of the Criminal Procedure Code a verdict in a Police Court case should be recorded immediately ("forthwith") after the close of the evidence, and a delay of more than six months cannot be treated as an innocuous irregularity. In *Venasy v. Velan*¹ Bonser C.J. emphasized the desirability of the finding as to the guilt or innocence of the accused being recorded by the Magistrate immediately at the conclusion of the trial. In *Rodrigo v. Fernando*² Withers J. expressed himself to the same effect, and observed that if in the case he was dealing with the objection on the ground of the irregularity involved had been pressed, he should have been obliged to remit the case for a new trial. In 9,292—P. C. Panadure³ Lawrie A.C.J. said that the pronouncement by a Magistrate of the verdict in a case a month after the trial was *ultra vires*; and finally, in *The King v. Fernando*⁴ Wendt J. thought that a delay of two days by a District Judge in pronouncing his verdict in a case was an irregularity, but that it did not vitiate the proceedings, unless it had occasioned a failure of justice. In the present case, as observed already, there has been a delay of over six months, and I do not think that it will be fair to the accused to apply the saving provision of section 425 of the Criminal Procedure Code to so great an irregularity.

I quash the conviction and proceedings *ab initio*.*Proceedings quashed.*¹ (1895) 1 N. L. R. 124.² (1899) 4 N. L. R. 176.³ (1901) 5 N. L. R. 140.⁴ (1906) 2 Bal. 46.