

1918.

[IN REVISION.] .

AIYA v. PENIYA.

Present: Shaw J.

P. C. Balapitiya, 45,764.

Deaf and dumb accused—Unable to understand the nature of proceedings against him.

Where an accused was a deaf and dumb person, who cannot be made to understand the nature of the proceedings against him, and where the Magistrate notwithstanding heard the evidence against him and convicted him—

Held, that the conviction was illegal. Some person must be present in Court skilled to interpret between the deaf mute and the Court.

THE facts appear from the judgment.

No appearance.

November 18, 1918. SHAW J.—

This case has been referred to the Supreme Court by the Police Magistrate of Balapitiya. The Magistrate states in his judgment that the accused is deaf and dumb, and cannot be made to understand the nature of the proceedings against him. The Magistrate, notwithstanding this, heard the evidence against the accused, and having convicted him of theft, treated him as a first offender, and bound him over in Rs. 50 to be of good behaviour for a period of six months, and directed his mother to stand surety. The conviction must be set aside, as no person can be tried for a criminal offence unless he be given an opportunity of making his defence.

Either some person must be present in Court skilled to interpret between the deaf mute and the Court, or, if the accused is imbecile by reason of his infirmity, he can be dealt with under Chapter XXXII of the Criminal Procedure Code.

Set aside.

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Atya v.
Peniya