

1955

*Present : Swan, J.*

DEWASURENDRA, Appellant, and ALAHAKOON (Court Officer),  
Respondent

*S. C. 915—M. C. Walasmulla, 13,217*

*Causing interruption to judicial officer—Must be intentional—Penal Code, S. 223.*

In a prosecution under section 223 of the Penal Code for causing interruptions to a public servant while such public servant is sitting in any stage of a judicial proceeding, the Court has to be satisfied that the act of the accused was intentional.

**A**PPPEAL from a judgment of the Magistrate's Court, Walasmulla.

*Sir Ukwatte Jayasundera, Q.C.*, with *Sunil K. Rodrigo*, for the accused appellant.

*Lucien de Alwis*, Crown Counsel, for the Attorney-General.

*Cur. adv. vult.*

October 24, 1955. SWAN, J.—

The appellant was charged with having intentionally caused interruption to the Magistrate at Walasmulla when he was holding an inquiry into a murder case by uttering the words "oka boru" meaning "that is a lie", and thereby having committed an offence punishable under Section 223 of the Penal Code.

The incident arose in the following circumstances. Mr. S. S. Kulatilleka was conducting the inquiry in case No. 12,995 of the Magistrate's Court of Walasmulla, and while he was examining a witness the appellant who was the father of one of the accused used the words in question. At the trial of this case Mr. Kulatilleka giving evidence for the prosecution stated that he was interrupted and had to stop the proceedings and call the appellant up for having given utterance to that expression. He added, however, that he would not say it was a deliberate act and that he thought that it was not intentional, but he could not say so definitely. It appeared to him, however, that it was a spontaneous outburst.

The Assistant Superintendent of Police said that due to the interruption it was not possible for him to continue leading evidence. He admitted in cross-examination that up to the time of the interruption the accused was seated in Court and behaving quite normally. He said that the

accused must have been grieved by the evidence of the witness, that after the interruption there was no further trouble and that the appellant did not create a scene.

This was the evidence for the prosecution. For the defence only one witness was called, namely Mr. H. A. Bastiansz who was the Proctor for the accused in the murder inquiry. He described the words used by the appellant as "an outburst of pent-up feelings of a father who was grieved at his son being charged". In answer to Court he said that the words were not uttered in an offensive way.

The learned Magistrate deferred his order which he delivered one week later. He found the accused guilty and sentenced him to pay a fine of Rs. 50. In the course of his judgment he stated that the Section under which the accused was charged consisted of two parts, namely (a) whoever intentionally offers any insult to any public servant while such public servant is sitting in any stage of a judicial proceeding, and (b) whoever causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding. The case he was considering came under (b). Under that part, as he understood it, he seemed to think that there was no necessity for proving that the accused's act was intentional.

There can be no doubt that the learned Magistrate has misunderstood the section. The adverb "*intentionally*" modifies both the phrases "*offers any insult*" and "*causes any interruption*". That seems obvious when one considers how the section has been framed and pays heed to the punctuation. A glance at the side note makes this quite clear.

The corresponding section of the Indian Penal Code is section 228 and is identical with our own. In *Re Ramasamy Gounden*<sup>1</sup> it was held that the Court had to be satisfied that the accused intentionally offered interruption to the Court. There are also some local cases on contempt to the same effect.

I think that the learned Magistrate was clearly wrong when he tried to place his own interpretation on the section. Learned Crown Counsel tried to support the conviction on the ground that there was sufficient evidence to prove that the interruption was intentional. He argued that there was in fact an interruption of the proceedings and, applying the principle that a man must be presumed to intend the natural and probable consequences of his acts, one must infer that the interruption was intentionally caused. But the circumstances negative intention. Even Mr. Kulatilleka said that he could not be definite whether the appellant's act was intentional or not.

I set aside the conviction and acquit the accused.

*Appeal allowed.*

<sup>1</sup> 16 Indian Cr. L. J. R. 610.