

criminal breach of trust in respect of 343 gallons of kerosene oil of the value of Rs. 370.40.

The accused was tried summarily under the provisions of section 152 (3) of the Criminal Procedure Code and sentenced to pay a fine of Rs. 425 and in default of payment to four months' rigorous imprisonment.

The additional District Judge further ordered that "if the fine is paid Rs. 375 to go to the complainant".

The charge was well proved and I see no reason to interfere with the conviction of the accused.

The legality of the order that Rs. 375 of the fine should be paid to the complainant was not so clear, and I am indebted to Crown counsel and counsel for the respondent for the assistance they have given me by a very full argument of the question I have to decide.

The section under which the order was made is not specified in the District Judge's order, but I take it it was made in pursuance of the provisions of section 253D of the Criminal Procedure Code.

This section, omitting what is unnecessary, enacts that "Whenever a criminal court imposes a fine, such court may order the whole or any part of the fine recovered to be applied in compensation for the injury caused by the offence committed where substantial compensation is, in the opinion of the court, recoverable by a civil suit".

It seemed to me doubtful whether the expressions "injury" and "substantial compensation" were applicable to cases where a person suffered loss by theft or criminal misappropriation.

Respondent's counsel contended that in view of the definition of the words "injury" in the Penal Code, section 253 was wide enough to cover such cases.

The word "injury" in the Penal Code denotes any harm whatever illegally caused to any person in body, mind, reputation, or property—section 43.

1930

Present : Maartensz A.J.

ROBO v. JAMES.

638—*P. C. Gampola*, 22,647.

Compensation to complainant—Criminal breach of trust—Portion of fine—Power of Court—Criminal Procedure Code, s. 253D.

Where on a conviction for criminal breach of trust, the Court imposes a fine on the accused, it may under section 253D of the Criminal Procedure Code order a part of the fine, if recovered, to be paid as compensation to the complainant.

A PPEAL from an order of the Police Magistrate of Gampola.

Abeyesekera (with him *Ranawake*), for accused appellants.

Navaratnam, for complainant respondent.

Crossette Thambiah, C.C., for the Attorney-General.

October 22, 1930. MAARTENSZ A.J.—

This is an appeal by an accused who has been convicted of having committed

This definition is clearly wide enough to include a case of criminal breach of trust.

The word "injury" is not defined in the Criminal Procedure Code, but by section 3 of the Criminal Procedure Code all words used in the Criminal Procedure Code, and defined by the Penal Code, and not defined by section 3 are deemed to have the meanings attributed to them by the Penal Code.

I am therefore of opinion that the District Judge had jurisdiction to make order that if the fine is paid part of it should be paid to complainant.

I accordingly dismiss the appeal.

Appeal dismissed.
