

Present: Dalton J.

1926.

PUNCHI BANDA KORALA *v.* MARTHHELIS

187—*P. C. Matale, 25,622.*

*Obstruction to public officer—Use of physical force—Elements of offence—
Penal Code, s. 183.*

The use of physical force is not essential to constitute obstruction within the meaning of section 183 of the Penal Code.

A PPEAL from a conviction by the Police Magistrate of Matale: The accused was charged with obstructing a public officer in the discharge of his public functions. The complainant was holding an inquest over a death, at which certain witnesses were summoned among whom was a boy, son of the accused. It appears that while the boy was waiting to give evidence, the accused came on the scene, abused the inquirer, and took the boy away. It was

1926. DALTON J. urged on behalf of the accused that there was no obstruction by him within the meaning of section 183 of the Penal Code.

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Schokman, for accused, appellant.

Rajakarier, for complainant, respondent.

May 18, 1926. DALTON J.—

The appellant was charged under the provisions of section 183 of the Criminal Procedure Code with voluntarily obstructing a public officer in the discharge of his public functions. It is admitted in this case, so far as the appeal is concerned, that the complainant was a public servant and that at the time this occurrence took place he was acting in the discharge of public functions. He was, in fact, an inquirer holding an inquest into a certain death. It seems that in the course of that inquiry witnesses had been brought before him, including a boy. This boy is the son of the accused. Whilst the boy was waiting to give evidence the accused seems to have arrived on the scene, violently abused the inquirer, lost his temper, beat the boy, and took him away. The evidence shows that the boy was anxious to give his evidence. The evidence further discloses that the proceedings were interrupted for nearly one hour owing to the conduct of the accused. It has been urged on his behalf that there is no obstruction disclosed by these facts within the meaning of section 183. It was argued in the lower Court that there must be some physical force used to constitute obstruction as contemplated by the section, and that argument the Magistrate seems to have accepted. I do not think that the argument was sound. However that may be, the Magistrate goes on to say in view of the fact that physical force was used to the boy there was obstruction within the meaning of the section. The cases cited to me with regard to previous occurrences that have been before the Court under this section clearly point out that physical force need not necessarily be present to constitute obstruction. What the cases do say is that there must be some overt act done or physical means used. These are the words *Lascelles C.J.* in the case of *Fernando v. Alia Marikar*,¹ which case was followed by *Wood Renton J.* in *Lourenz v. Jayasinghe*.² It is true that there is a disagreement between *Sir Joseph Hutchinson* in the case of *Hendrick v. Kirihamy*³ and *Wood Renton J.* in the case I have referred to, but that disagreement only arose from the particular facts of the cases which they were dealing with. It is not necessary for me to consider that here because the facts are entirely different. *Wood Renton J.* also refers to an English case which clearly shows that

¹ 1 C. A. G. 173.

² 2 Leader 105.

³ 16 N. L. R. 505.

there may be obstruction without any physical force being used at all. In *Betts v. Stevens*¹ certain parties were charged with obstructing a Police Officer in the execution of his duty. In that case certain constables were on duty observing and timing the speed of motor cars driven along a certain road with a view to the prosecution of the drivers of such motor cars as should be travelling at an illegal speed. For that purpose the beat constable had arranged, what is commonly called, a trap and measured a certain distance along the road over which they proposed to time the cars. The defendant in that case warned the drivers of cars which were approaching that the trap was there and thereupon the drivers reduced their speed. The constables were thereby prevented from obtaining such evidence as would be accepted as sufficient in a Police Court that the drivers of the cars were committing an offence. It was held by the King's Bench Division (the bench constituting of Lord Alverstone C.J., Darling J., and Bucknill J.) that the defendant had wilfully obstructed the constable in the execution of his duty within the meaning of the law. There are the circumstances, if I may say so, which Lascelles C.J. speaks of, *i.e.*, an overt act done but no physical force or means were used such as counsel for the appellant has argued before me must be present. I am unable to accept that argument as sound. In my opinion the learned Magistrate's conclusion was correct, although his reasons might be wrong. The appeal must be dismissed and the conviction affirmed.

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Appeal dismissed.

¹ (1910) 1 K. B. 1.