

1957

Present : L. W. de Silva, A. J.

M. IBRAHIM, Appellant, and INSPECTOR OF POLICE,  
RATNAPURA, Respondent

S. C. 706—M. C. Ratnapura, 60,204

*Criminal Procedure Code—Section 306 (1)—Judgment—Duty of Magistrate to give reasons for his decision.*

Omission by a Magistrate to state the reasons for his conclusions is a grave irregularity. Mere recital of facts is not a sufficient compliance with the provisions of section 306 (1) of the Criminal Procedure Code.

APPEAL from a judgment of the Magistrate's Court, Ratnapura.

G. P. J. Kurukulasuriya, with F. C. Perera, for the 1st accused-appellant.

E. H. C. Jayatileke, Crown Counsel, for the Attorney-General.

October 1, 1957. L. W. de SILVA, A.J.—

The appellant was convicted after trial on two charges framed under sections 315 and 314 of the Penal Code and sentenced to six months rigorous imprisonment and to pay a fine of Rs. 75 respectively.

Learned counsel for the appellant has pointed out that the judgment of the Magistrate contains only a mere outline of the case for the prosecution and the defence without reasons being given for the decision. He has referred me to section 306 (1) of the Criminal Procedure Code (Cap. 16) :—

“ The judgment shall be written by the District Judge or Magistrate who heard the case and shall be dated and signed by him in open Court at the time of pronouncing it, and in cases where appeal lies shall contain the point or points for determination, the decision thereon, and the reasons for the decision. ”

Learned counsel has asked for a new trial before another Magistrate and has brought to my notice the case of *Thuraiya v. Pathaimany*<sup>1</sup> where Nihill J. observed :

“ A mere outline of the case for the prosecution and the defence embellished by such phrases as ‘ I accept the evidence for the prosecution ’, ‘ I disbelieve the defence ’, is by itself an insufficient discharge of the duty cast upon a Magistrate by section 306 (1) of the Criminal Procedure Code. ”

<sup>1</sup> (1939) 15 C. L. W. 119.

I am unable to take any other view of the present case. The judgment has the heading "Reasons" (though none has been given) and covers nearly four pages of typescript. Three and a half pages are devoted to a recital of the facts. Then comes the following concluding paragraph :—

"There is not the slightest doubt on the evidence that the three accused had pelted stones and probably got some stones themselves in return. I have also not the slightest doubt in accepting the evidence of the prosecution witnesses that in the course of the stone throwing the 1st accused flung the bottle of acid at Dorai Rajah. I accept the evidence of the prosecution witnesses and find the 1st accused guilty on counts 2 and 3, and convict him. I find him not guilty on count 1 and acquit him on that count."

Learned Crown Counsel was unable to support the judgment. Nowhere has the Magistrate given any reasons for his conclusions, nor does he appear to have considered the evidence given by the appellant and his witnesses. The learned Magistrate's omission to state the reasons for his decision has deprived the appellant of his fundamental right to have his conviction reviewed by this Court and has thus occasioned a failure of justice. Without such reasons, it is impossible for this Court to judge whether the finding is right or wrong. I therefore set aside the convictions and sentences and order a new trial.

There is one other matter to which I should refer. In recording evidence, the Magistrate should comply with the requirements of section 298 (3) of the Criminal Procedure Code. For the identification of witnesses, particulars as to the race, occupation, age, place of residence, full name etc., of each witness are always necessary and no exception should be made.

*Case sent back for a new trial.*

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