

1945

Present: Howard C.J.

SUBASINGHE, Appellant, and MUTTIAH, Respondent.

735—M.C. Negombo, 40,776.

Insult—Ingredients of offence—Penal Code, s. 484.

In order to constitute an offence under section 484 of the Penal Code it must be proved that (a) the insult was intentional, (b) was of a provocative character likely to produce a breach of the peace, (c) the accused knew that his words were likely to produce that result.

A PPEAL from a conviction by the Magistrate of Negombo.

S. Nadesan (with him N. Nadarasa), for the accused, appellant.

T. S. Fernando, C.C., for the Attorney-General.

January 30, 1945. HOWARD C.J.—

The appellant appeals from his conviction on a charge under section 484 of the Penal Code that he did insult Mr. A. P. Wickremasooriya, Station Master, Negombo Railway Station, by using the following words,—

“ I will take off your uniform and teach you a good lesson ”; and thereby gave provocation to the said Mr. A. P. Wickremasooriya intending that such provocation will cause the said Mr. A. P. Wickremasooriya to break the public peace or to commit any other offence. The appellant on the day in question went to the railway station to fetch his parcel of papers. The Station Master was on the platform attending to two trains which had arrived at the station at that time. The appellant approached the Station Master and complained that his papers were being delayed and demanded immediate inquiry. The Station Master was busy at the time and wanted the appellant to wait a few minutes. The appellant then became boisterous and threatened to report the Station Master to the General Manager. After the train had gone the Station Master went to the booking office and found that the papers had been delivered to the appellant. As the appellant was going through the gate where the policeman collects tickets the appellant used the words which have been made the subject of this charge. The Station Master says that he was greatly provoked by these words and went up to the appellant and told him that he proposed to detain him till he handed him over to the police. He says that he detained him fearing a breach of the peace.

Counsel for the appellant contends that the words alleged to have been used by the appellant cannot, in the circumstances of this case, be said to constitute in law an offence under section 484 of the Penal Code. It has been held by this and the Indian Courts that a charge of insult cannot be sustained if the language used amounted to mere verbal abuse. It must also appear from the circumstances, from the terms of the abuse itself, and having regard to the person to whom it was addressed, that the accused intended or knew it would be likely to cause him to break the peace or commit some other offence. In this connection the cases of *Balasuriya v. Dharmasiri*¹ and *U. J. Perera v. Fernando*² are very much in point. In the latter case Abrahams C.J. held that in the absence of a finding that the accused had the necessary intention or knowledge that the person insulted was likely to break the public peace, the conviction of the accused for an offence under section 484 was not sustainable. Now in this case the Magistrate has satisfied himself that the insult was intentional. He also finds that the insult was of a provocative character likely to produce a breach of the peace and that considering all the evidence, he is satisfied that the accused must have known he would produce that result. I find it impossible to say having regard to all the circumstances of the case that the Magistrate's finding on this point was wrong. The appeal is therefore dismissed.

Affirmed.

¹ 1 C. L. W. 343.

² 1 C. L. J. 49—Notes.