

1964

Present : Sirimane, J.

DINORIS SILVA *et al.*, Appellants, and INSPECTOR OF POLICE,  
NEGOMBO, Respondent

*S. C. 222-223/64—M. C. Negombo, 3,625*

*Accused brought before Magistrate in custody without process—Examination of informants “forthwith”—Meaning of word “forthwith”—Criminal Procedure Code, ss. 148 (1) (d), 151 (2), 187 (1).*

Section 151 (2) of the Criminal Procedure Code reads as follows :—

“Where proceedings have been instituted under paragraph (d) of section 148 (1), the Magistrate shall forthwith examine on oath the person who has brought the accused before the court and any other person who may be present in Court able to speak to the facts of the case.”

*Held*, that the word “forthwith” in the Section does not mean that the person who brings the accused before court should be examined on the same day. He can be examined within a reasonable time.

**A**PPPEAL from a judgment of the Magistrate’s Court, Negombo.

*E. H. C. Jayetileke*, for the Accused-Appellants.

*K. Abhanayake*, Crown Counsel, for the Attorney-General.

June 2, 1964. SIRIMANE, J.—

The accused were charged with causing simple hurt under Section 314 of the Penal Code. Mr. Jayetileke for them argued that the Magistrate had failed to comply with section 187 (1) of the Criminal Procedure Code as he did not forthwith examine on oath the person who produced the accused before Court as required by section 151 (2). I am of the view that the word “forthwith” in section 151 (2) does not mean that the person who brings the accused before court should be examined on the same day. He can be examined within a reasonable time. One cannot fail to observe, however, that there has been some inordinate delay in this particular case. The accused were produced in court on 20.5.63 and after several dates the examination took place only on 9.7.63. The delay, however, has not in my opinion occasioned any failure of justice and I do not wish to interfere with the conviction on this ground.

Mr. Jayetileke has also urged that the sentence is excessive. The accused are close relatives and there is some substance in the submission that it is obvious that they had acted impulsively. The virtual complainant had some very slight injuries, these being some scratches on the face and a contusion above the eye-brow. The learned Magistrate imposed a sentence of 6 months’ simple imprisonment on each accused. One serious circumstance is the fact that the virtual complainant had been assaulted when he had come to court to give evidence, but according to the Police Sergeant who gave evidence the incident did not take place close to the Court-house. Mr. Jayetileke has also urged that the accused are persons of good character.

Taking all the circumstances into consideration, I would reduce the sentence to one of 6 weeks’ simple imprisonment.

*Sentence reduced.*