

1956

*Present ; T. S. Fernando, J.*

H. V. ABRAHAM SINGHO, Appellant, and G. F. S. ELIAS  
(Inspector of Police), Respondent

*S. C. 844—M. C. Gampaha, 30, 487*

*Criminal Procedure Code—Section 418—“Criminal force”.*

Threats of violence and murder which cause people to go away from their lands may constitute “criminal force” within the meaning of section 418 of the Criminal Procedure Code.

**A**PPEAL from a judgment of the Magistrate's Court, Gampaha.

*Charles Jayawickrama, with Daya Vitanage, for the accused-appellant.*

*B. E. de Silva, Crown Counsel, for the Attorney-General.*

*Cur. adv. vult.*

November 15, 1956. T. S. FERNANDO, J.—

The appellant was convicted in the Magistrate's Court of the offences of criminal trespass and criminal intimidation and was sentenced to undergo a term of six months' rigorous imprisonment in respect of each offence, the two sentences to run consecutively. The offences were clearly established on the evidence, but learned counsel for the appellant complains that the punishment is unduly severe. Although the learned Magistrate has taken great pains to explain that the appellant's conduct on the day in question has been very high-handed, I fail to see the necessity of imposing in this case the maximum term of imprisonment in respect of each of the two offences and directing that they do run consecutively. The act of criminal trespass was aggravated by the act of intimidation which accompanied it and a term of six months' rigorous imprisonment on the conviction for criminal trespass was therefore merited. To order that the appellant should undergo a further term of six months' rigorous imprisonment at the end of that period on account of the conviction for intimidation is to treat the appellant with undue harshness. I would therefore, while affirming the terms of imprisonment, direct that the two sentences do run concurrently.

Counsel for the appellant has also argued that the order purporting to be made under section 418 of the Criminal Procedure Code directing Tillekeratne to be restored to the possession of the land of which he was dispossessed by the appellant is illegal as the offences of which the appellant was convicted were not "attended by criminal force". While it is correct that the appellant did not lay hands upon any person on the land, the evidence clearly established that he brandished a knife and threatened to kill any one attempting to prevent him from entering the land or putting up a hut thereon. The answer to counsel's argument is to be found in the decision of this court in the case of *John v. Richard Pieris*<sup>1</sup> which followed an earlier unreported decision where Dalton J. emphasized that threats of violence and murder which cause people to go away from their lands could rightly be said to amount to a show of criminal force.

Subject to the variation of the sentence indicated in the first paragraph of this judgment, the appeal is dismissed.

*Sentence varied.*

<sup>1</sup> (1939) 4 *Ceylon Law Journal* 95.