

1913.*Present: Pereira J.*WICKRAMASEKERA *v.* DINGIRI BANDA.77—*D. C. Kandy, 21,829.**Contempt of Court—Prevarication—False evidence.*

A witness who deliberately prevaricates is guilty of contempt of Court; but the mere making of a false statement in giving evidence is not prevarication. To constitute prevarication there must be an attempt at evasion of the truth—at shuffling or quibbling when giving evidence. The giving of false evidence does not necessarily amount to contempt of Court, unless the evidence is so transparently false as to give rise to a reasonable suspicion of an attempt on the part of the witness to trifle with the Court.

THE facts appear from the judgment.

No appearance for appellant.

*Cur. adv. vult.*

July 3, 1913. PEREIRA J.—

In this case the appellant, who was a witness, appeals from an order of the District Judge convicting him of contempt of Court and imposing on him a fine of Rs. 100. The alleged contempt, according to the District Judge, consists in prevarication. He records that the appellant is charged with “contempt of Court by trying to mislead it by prevarication,” and the prevarication referred to here is thus set forth by the District Judge: “That he, on the 16th instant, denied that the Tambligahawatta, which had been transferred to him by a notarial deed, had been so transferred by the first defendant, and stated that she had no connection whatever with that transaction.” Now, deliberate prevarication no

doubt constitutes contempt of Court; but what is prevarication, and was the appellant guilty of prevarication, or merely of making a false statement when giving evidence on oath? To prevaricate literally means to shift or turn from one side to the other. As commonly used, it means to evade telling the truth, to shuffle, to quibble. The underlying idea is an artful mode of escaping the scrutiny of an inquirer by the use generally of loose and indefinite expressions. This being so, it is quite clear that the appellant was not guilty of prevarication. He was asked a certain question, and he gave a clear and definite though false answer. That was not prevarication, and it follows that the conviction on the ground of prevarication cannot stand. Can it be said that the appellant is guilty of contempt in giving false evidence? A Judge cannot be too careful and cautious in proceeding as for contempt against a witness who merely gives false evidence. If this course is freely pursued, some one witness or another may have to be punished for contempt of Court in almost every case. Ordinarily, a witness who gives false evidence in a Court of justice intends no contempt. Intention may, however, be presumed, and the witness may be guilty of contempt if the evidence is so transparently false as to give rise to a reasonable suspicion of an attempt on the part of the witness to trifle with the Court. The position is clearly laid down by the Chief Justice in the case of *Asanar v. Andrew*.<sup>1</sup> I cannot say that the answer given by the witness in the present case was evidence of the description mentioned above. I say nothing of the possible ways in which the witness might have been dealt with.

I set aside the order appealed from.

*Set aside.*

1913.

PEREIRA J.

*Wickrama-  
sekera v.  
Dingiri  
Banda*

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<sup>1</sup> (1912) 15 N. L. R. 406.