

1946

Present : Wijewardene J.

RAMAN, Appellant, and THE SUPERINTENDENT OF POLICE,
HATTON, Respondent.

986—*M. C., Hatton, 8,711, with Application for Revision.*

Criminal intimidation—Evidence of threat to a person's property—Penal Code, ss. 483, 486.

Where the accused was charged with having committed criminal intimidation by threatening M, a labourer, with injury to his property and the evidence on which the accused was convicted was that the accused had threatened to set fire to the shed where M and his fellow labourers worked—

Held, that the shed could not be regarded as the property of M within the meaning of section 483 of the Penal Code.

A PPEAL, with application for revision, against a conviction from the Magistrate's Court, Hatton.

L. A. Rajapakse, K.C. (with him *S. P. Wijeyewickreme*), for the accused, appellant.

A. C. M. Ameer, C.C., for the Crown.

Cur. adv. vult.

September 25, 1946. WIJEWARDENE J.—

The accused was convicted on two counts under sections 486 and 433 of the Penal Code and sentenced to one month's rigorous imprisonment on each count. The accused was undefended at the trial.

The first count charged the accused with having committed criminal intimidation "by threatening one Muttukaruppen of Dec Side Estate with injury to his property". The second count was that the accused committed criminal trespass "by entering into Dee Side Estate with intent to commit criminal intimidation" as set out in the first count.

The evidence of Muttukaruppen on which the finding of the Magistrate is based was that the labourers who were members of a certain Congress were observing hartal on the day in question. The accused was a member of the Congress employed on Brunswick estate. He went to Dee Side estate and finding that Muttukaruppen, a labourer of Dee Side estate

who was not a member of the Congress, was working "at a nursery on the Dee Side estate" said, "Go away. Do not work". When Muttukaruppen refused to comply with his request, the accused "threatened to set fire to the shed" where Muttukaruppen and his fellow labourers worked. Mr. Ameer invited my attention to *Regina v. Grimwade*¹. That case held that a house occupied by a person under an agreement for a number of years could be regarded as the house of that person within the meaning of 4 Geo. IV. c. 54, s. 3. That case cannot be regarded as an authority for holding that the shed where Muttukaruppen and his fellow labourers worked is the property of Muttukaruppen within the meaning of section 483 of the Penal Code, and, therefore the conviction on this first count must fail. I may add also that the Magistrate had no jurisdiction to try the accused summarily on that count as the threat of the accused according to Muttukaruppen was "to cause the destruction of the property by fire" (*vide* the First Schedule to the Criminal Procedure Code).

The conviction on the second count must fail as the "offence" which the accused intended to commit is the "offence" set out in the first count and that is not an offence within the meaning of the Penal Code (*vide* sections 38 and 433 of the Penal Code).

I acquit the accused.

Accused acquitted.
