

UGANDA / JUDGMENT

Rex v Puri (Cr. R. 8/1931.)

[1931] EACA 30 (1 January 1931)

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COURT

East African Court of Appeal

BEFORE

Barth CJ, Dickinson, J

CASE / FILE NUMBER

Cr. R. 8/1931.

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Before SIR JACOB BARTH, C. J., and DICKINSON, J.

REX (Respondent) (Original Prosecutor)

D. D. PURI (Applicant) (Original Accused).

Cr. R. 8/1931.

The Penal Code, section 231 (b)—wilfully obstructing a police officer in the due execution of his duty.

Held (23-2-31):—That there was no search warrant under which the police could purport to act, and that therefore no offence had been committed.

Hopley for Appellant.

Abbott, Crown Counsel, for Crown.

The Judgment of the lower Court reads as follows: - The accused is charged, under section 231 (b), Penal Code, of wilfully obstructing a police officer in the execution of his duty. From the evidence of two police officers, i.e. witnesses 1 and 2 for the prosecution who are police askaris, it appears that they were on duty and were looking for sugar being illegally imported into the district. They stopped accused's car but were refused permission to search same.

Accused admits this refusal on his part to allow a search of his car to be made. Further he admits he had nothing to hide as he had a Sugar Permit to import sugar into the Machakos district. In support of his argument it has been pleaded that he at once came to find the Assistant Inspector Police, Machakos, to allow him to search.

The action of the two police askaris is covered by section 60 and 62 of the Cr. P. O., though it has been pleaded for the defence that their action was illegal. With this view I do not hold.

Accused is a well-known resident of many years' standing in Machakos, and I can find no extenuating circumstances on his behalf. His high-handed action if allowed to pass unpunished would create a very bad precedent and cannot be tolerated. I find him guilty under section 231 P. C., and order him to pay a fine of Sh. 100 or in default to undergo one month's hard labour.

Abbott refers to the Penal Code, section 231 \$(b)\$, and to the Criminal Procedure Code, sections 60 and 116, and submits that he does not wish to support the conviction.

The Judgment of the Court was delivered by Sir Jacob Barth.

JUDGMENT.—The Crown does not support this conviction on the ground that there was no search warrant under which the police could purport to act, vide section 116 of the Criminal Procedure Code, and that therefore no offence has been committed.

In these circumstances the conviction and sentence are quashed and the fine must be refunded.

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