

**MICHAEL PARMA NAND**

v.

**REGINAM**

[SUPREME COURT, 1966 (Knox-Mawer P.J.), 4th, 14th January]

Appellate Jurisdiction

*Criminal law—sentence—desirability of preserving some measure of uniformity in sentences by Magistrates' Courts—Penal Code (Cap. 8) s.197(d).*

It is desirable that the Supreme Court, through its appellate jurisdiction, should, wherever possible, ensure that there is some measure of uniformity in the sentences imposed by the courts below. The appellant, who was convicted of being drunk and disorderly and had three previous convictions for the same offence, was sentenced in the Magistrate's Court to imprisonment for six months. In other cases, in the same district, study of recent case files indicated that in similar circumstances sentences of imprisonment of from six weeks to three months had been deemed appropriate and the sentence on the appellant was accordingly reduced to one of imprisonment for three months.

Appeal against sentence imposed by the Magistrate's Court.

Appellant in person.

G. N. Mishra for the respondent.

KNOX-MAWER P.J.: [14th January, 1966]—

The appellant was convicted before the Magistrate's Court of the First Class Rakiraki for being drunk and disorderly contrary to section 197(d) of the Penal Code. He was sentenced to 6 months' imprisonment. He has appealed against sentence only.

In passing sentence, the learned trial Magistrate observed that the appellant had three previous convictions for the same offence, the last of these having been committed only three months prior to the commission of the present offence. This Court entirely endorses the view of the learned trial Magistrate that in these circumstances it was necessary to inflict a sharp penalty in the hope that the appellant might thereby be induced to pull himself together and to avoid excessive drinking in the future. However, as learned Crown Counsel has agreed, the sentence of 6 months' imprisonment is somewhat in excess of other sentences given by the Courts in these circumstances. This is confirmed by a study I have made of recent case files from

the Magistrate's Courts in the Western District. Even when an accused has had considerably more previous convictions for this (and other offences) than had the appellant, a sentence of from 6 weeks to 3 months' imprisonment for a contravention of section 197(d) of the Penal Code has been considered appropriate. A

It is desirable that the Supreme Court, through its appellate jurisdiction, should, whenever feasible, ensure that there is some measure of uniformity in the sentences imposed by the Courts below. For this reason I have reduced the sentence in this case from 6 months' to 3 months' imprisonment.

*Appeal allowed.*