

own particular, lie because other witnesses have about the same time told similar lies; and it is each man's own lie, and not his neighbour's, that can alone be used against him, or be the subject of a prosecution under section 193. I do not mean to say that if the accused persons, were properly charged, each in respect of his own particular false statement, the Sessions Court might not be justified in putting them up and trying them together. It may occasionally be convenient and proper that they should be so tried; but then the Court requires to be most careful in keeping the case of each prisoner distinct from that of the others, and in seeing that the case against each is complete in itself in all its details.

Secondly.—The charge does not show what the statement is which the accused persons, or any of them, are alleged to have made and which is relied on as being false; it does not set out distinctly the particular statement on which the prosecution is based. It has been decided over and over again by this Court, that the charge under section 193 must show on the face of it the statement which is alleged to be false; and it is manifestly unfair to the accused when this rule is not attended to.

Thirdly.—The charge does not disclose either the day of the month, or the year, on which the offence charged was committed. It was "on or about" some day in some month of June, but there is nothing to indicate *what* June nor what day in what June.

Fourthly.—The charge does not indicate the Court, or the officer before whom the false evidence was given. The only information given is contained in the words "in a stage of a judicial proceeding" and at "Tajpur"; but what stage of what judicial proceeding does not appear. In the case of *The Queen v. Fatik Bawa* (1), where the charge was far fuller and better than in the present instance, the Court said: "We think it right to remark here that, in our opinion, both the charges made against the prisoner are seriously defective, in not specifying the judicial proceeding in a stage of which the prisoner is accused of having made the false statement. We even think that the particular stage of the proceeding ought to have been mentioned. It is only fair to the prisoner that the charge which is to stand for ever on record against him should be made as definite and specific as it reasonably can be."

The six prisoners being arraigned upon this remarkably loose and general charge, pleaded not guilty. At the trial their depositions taken by Mr. Forbes, the Assistant Magistrate of Tajpur, on the 17th of June 1871, in a stage of a criminal case which he was trying, were put in and proved. Evidence was given for the prosecution, that the statements made by the prisoners were false, and that the case which they attempted to support was false. But the whole evidence is of a general nature, and it was in fact deemed enough to prove that the case tried by the Assistant Magistrate was wholly false, without enter-

(1) 1 B. L. R., A. Cr., 13.

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ing into details as to the statements made by the present appellants respectively.

The commission of the offence of giving false evidence under section 193 is not proved, unless it is proved that the accused has intentionally made a particular statement which is shown to have been false to his knowledge. In the six depositions which have been put in, and which were treated as showing the false evidence with the giving of which the prisoners are charged, there are many statements which are probably true enough, and as to which there is certainly no evidence that they are false. The specific portions of these depositions which were relied on by the prosecution, ought to have been picked out and proved expressly in detail to have been false: and the general evidence which has been given is insufficient.

On the whole, it appears to me that there are errors and defects both in the charge and in the proceedings on the trial which have prejudiced the prisoners, and I think that the convictions, and the sentences passed on them, should be set aside, and that they should be discharged.

The position of the other four appellants, Maharaj, Kali, Dariaow, and Umah Misser, is similar in all respects,—except that the Assistant Magistrate has not attached to their depositions the memo. required by section 199 of the Criminal Procedure Code, and there is nothing to show that they ever acknowledged their evidence to have been correctly taken down,—except also that the charge against them states the day of the month (but not the year), and correctly speaks of the offence as being that of “intentionally” giving false evidence, instead of using the word “voluntarily” as in the other charge. The remarks I have made as regards the six prisoners apply almost equally to the other four; and I think that as to these latter also the convictions and sentences should be set aside, and that they should be discharged.
