

MANU MATEIALONA v. MAUSA PALU.

(Criminal Appeal : Thomson C. J. Nuku'alofa, 2nd December, 1947).

Person aggrieved to take proceedings — Proceedings on behalf of lunatic — who may take proceedings — Cap. 10 S. 93. 175).

This was an appeal from the decision of a Magistrate in refusing to hear the case on the ground that the complainant was not a "person aggrieved" within the provisions of Section 178 (3) of Cap. 10.

The action was brought by the Plaintiff against the Defendant for assaulting Alexander Brown in the State Prison. At the time of assault the Defendant was the Chief Gaoler at the State prison. Alexander Brown, an illegitimate son of the Complainant, was a lunatic and was detained in the prison under an order from the Chief Medical Officer. The Magistrate refused to deal with the case on the following grounds:— (a) Section 175 of Cap. 10 provides that only the police or the person aggrieved can prosecute under S. 93 of Cap. 10 and (2) The complainant in the case was not the person aggrieved. The complainant appealed.

HELD. The mother was the proper person to take proceedings.

Finau for the Appellant.

No appearance for the Respondent.

THOMSON C. J.: The mother of an illegitimate lunatic is clearly a "person aggrieved" within the meaning of the Act when the alleged offence is on the person of the lunatic.

Appeal allowed and case remitted to the Magistrate for hearing.

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