

Bribery corrupt Practice 49 NLR 159

Lambandusuriya, **Appellant**, and Robins (Superintendent of Police), **Respondent**. S. C. 529-M. C. Colombo, 25,267, Appeal from a judgment of the Magistrate, Colombo.

WIJEYWARDENE A.C.J.on June 15, 1948.

Facts

The accused was charged with accepting on October 21, 1946, while being a public servant a gratification of cash Rs. 250 other than legal remuneration from Sir soma Ranasinha as a reward for doing an official act in the exercise of his official functions, obtaining for the said Sir soma Ranasinha from the Government Agent, Western Province, a permit to cut and remove earth from the premises of the Government Girls' School. Non-summary proceedings were instituted on this charge. After several witnesses including Mr. Ranasingha had given evidence the Magistrate discovered that the offence with which the accused was charged was a summary offence. The Magistrate, thereupon, discharged the accused and ordered the Police to file a fresh plaint. That plaint was filed before another Magistrate who, after hearing evidence, convicted the accused and sentenced him to six weeks imprisonment

Held

Magistrate has rejected the evidence of the accused that he wanted to raise a loan for the purchase of a cycle without due consideration. Accused mentioned in the beginning of September his need for Rs. 1.000 for the purchase of a cycle and that he promised to give a loan of Rs. 250. Mr. Siriwardene's evidence is to the effect that as the accused was deaf he received a telephone message from Mr. Ranasinha for the accused on October 16 and that Mr. Ranasinha said in the course of his conversation that the loan would be ready. As soon as he was arrested by the Police, the accused told the Inspector that " the money was received as a loan ". It was argued by Crown Counsel that even if the sum of Rs. 250 was taken as a loan, yet the accused would be guilty of an offence under section 158 of the Penal Code, if the loan was asked for and obtained as a reward for the accused showing some favour to Ranasinha in the exercise of his official functions. That, no doubt, is a sound proposition of law, but it does not follow that a man could be charged for accepting " a gratification of cash Rs. 250 " for doing a certain official act and could be convicted on that charge in spite of the evidence for Crown, for obtaining a loan of Rs. 250 for doing a different official act.

Crown has not proved beyond reasonable doubt the charge preferred against the accused. Conviction was set aside and accuse was acquitted.