

## JACOB v. VELAI DEN KANKANI.

*P. C., Kandy, 15,797.*

*Ordinance No. 11 of 1865, s. 11—Ordinance No. 13 of 1889, s. 6, and Ordinance No. 7 of 1890, s. 1—Indian cooly—Quitting service without leave or reasonable cause—Moneys paid by superintendent to labourer for purposes other than wages, due or anticipated—Arrears of wages due.*

An estate kankani employed on a monthly contract of hire and service, whose wages for ten consecutive months were admitted to be due and unpaid at the time of his quitting service after notice of less than one month, is not guilty of an offence under section 11 of Ordinance No. 11 of 1865, in the absence of proof that the sums of money alleged to have been advanced to him by his master were on account of anticipated wages.

The value of rice and clothes supplied to a labourer in the course of service and for his use as a servant, and money advanced to him for a similar purpose by way of anticipated wages, may be deducted in the computation of an account of what wages, if any, are due and unpaid at a certain date.

**T**HE charge against the accused was that, being a labourer on an estate on a monthly contract of hire and service renewable from month to month, he did on the 27th March, 1893, before the end of his term of service, quit the complainant's service without leave or reasonable cause, or without giving a month's previous notice, in breach of section 11 of Ordinance No. 11 of 1865.

The superintendent of the estate stated in his evidence that the accused was one of his kankanis, that he had no reasonable cause for quitting service, and that he was largely indebted to the estate when he left it, but he admitted that when the accused quitted his service wages for about ten consecutive months were due to him and his coolies.

On appeal against a conviction, the judgment of the Court below was set aside and defendant acquitted.

3rd August, 1893. WITHERS, J.—

My interpretation of the Labour Ordinance is that, as regards labourers on estates employed otherwise than in domestic service, only advances by way of anticipated wages can be taken into account in computing what, if anything, is due to a labourer by way of wages earned by him at the date of his committing the offence of quitting service without leave, or reasonable cause, or due notice determining the service.

Just as the value of rice and clothes supplied to a labourer in the course of service and for his use as a servant, so may money, advanced to him for a similar purpose, be deducted in the computation of an account of what wages, if any, are due and unpaid at a certain date and for a certain period

Here, it is admitted that wages earned during ten months had not been paid to this accused, so that wages for a series of months after the expiry of the last month of the series had not been paid him within sixty days thereof. But it was argued that the unsettled advances to this accused so altered the state of accounts between employer and labourer that a sum was due by the latter to the former. It is not proved, nor is it likely, that these large sums were advanced to him for the purpose I have indicated, and I cannot see my way to support the conviction.

