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GRESSY v. PERERA.

P. C., Colombo, 69,315.

Arrest by police constable—Arrest outside the limits of the Colombo police—Right of constable belonging to the Colombo force to arrest a person charged with theft outside Colombo—Escape from legal custody.

Police constables, though attached to certain police stations, have the power to perform their duties over the whole Island.

A constable attached to the Colombo police force may lawfully arrest a person charged with theft at a place outside the limits of Colombo, and if the person so arrested escapes from his custody, he will be liable to be punished under section 219 of the Penal Code.

If the person arrested escapes, it is the duty of the police to pursue and arrest him on the original charge.

THe accused was charged under section 219 of the Penal Code, with having escaped from the custody of a police constable at Grandpass, when lawfully detained on a charge of theft.

The complainant deposed that he arrested the accused "at Peliyagoda outside the police limits," brought him to the police

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station at Grandpass, and was proceeding with him to the Kotahena police station when the accused ran away. The complainant admitted that Peliyagoda is out of the jurisdiction of the Colombo police and belongs to that of the Government Agent in charge of the Western Province police.

Thereupon the Magistrate (Mr. A. S. Pagden) declined to proceed any further with the case, holding that the arrest was unlawful, and that the constable had acted outside the limits of his jurisdiction.

The Attorney-General appealed.

V. M. Fernando, C.C., for appellant.

Cur. adv. vult.

22nd May, 1901. LAWRIE, J.—

I am not inclined to interfere in the ordinary case when a Magistrate after hearing evidence refuses to issue summons and to proceed further, but in this case the Magistrate has given reasons which require correction.

Police Constable A 438 swears that a man accused of theft was given to his charge at Grandpass to be taken to Kotahena, and that on the way between the two police stations the man in custody ran away.

The Magistrate holds that an arrest by a police constable at Peliyagoda across the Victoria bridge, beyond the Municipal limits, was illegal, "because outside the limits of his jurisdiction." A police constable has no "jurisdiction," his duty extends over the whole Island. He is a peace officer (Criminal Procedure Code, section 3).

By section 32 a peace officer may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information exists of his having been so concerned; and by section 34 a peace officer, for the purpose of arresting any person whom he has power to arrest without warrant, may pursue any such person into any part of the Island.

The arrest at Peliyagoda seems to have been regular, and there is no doubt that a man, charged with or suspected of having committed theft, and given into custody of a police constable at Grandpass to be taken to Kotahena, is in legal custody.

I send the case back for further proceedings, because the reason for refusing to proceed is wrong, not because I think that the case itself is of any consequence.

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LAWRIE, J.

If the hold of a policeman on the man in his custody is so slight that the man can, if he like, run away (as the man did in this case), the duty of the police is to run after him and catch him and to arrest him on the original charge, with or without a warrant. It seems to me absurd to multiply charges. It is a sign of weakness in the police to bring complaints for escape from custody instead of catching the man themselves and keeping him when they catch him. Constables from whose custody they escape should, I think, be punished for febleness and neglect of duty.

