

Present: The Hon. Mr. A. G. Lascelles, Acting Chief Justice.

1906,
October 4.

IBRAHIM v. JAMALDEEN BAI.

P.C., Puttalam, 11,395.

Exposing for sale beef unfit for food—Criminal liability of master for the act of his servant—Penal Code, s. 266.

The master is criminally liable for the act of his servant in exposing for sale any article which has become unfit for food, knowing or having reason to believe that the same is noxious as food, which is an offence punishable under section 266 of the Penal Code.

The principle laid down in *Coppen v. Moore* (1) followed.

A PPEAL from a conviction under section 266 of the Penal Code.

Elliott, for the accused, appellant.

Cur. dv. vult.

4th October, 1906. LASCELLES A.C.J.—

The appellant, who is a butcher, was convicted under section 266 of the Penal Code for exposing for sale beef unfit for food, knowing or having reason to believe that the same was noxious as food. The appeal is urged on the grounds (1) that the beef was sold not by the appellant but by his servant; and (2) that the appellant did not know, and had no reason to believe, that the meat was unsound.

Having regard to the decision in *Coppen v. Moore* (1), I do not think that the first ground of appeal can be sustained. In this case a special Court consisting of six Judges sustained the conviction of a master under section 2 of the Merchandise Marks Acts for the act of his salesman in selling an American ham under a false description as a scotch ham. The principle to be applied to such cases was thus laid down by Lord Russell: "The question then in this case comes to be narrowed down to the simple point, whether upon the true construction of the statute here in question the master was intended to be made criminally responsible for acts done by his servant in contravention of the Act."

I cannot doubt that upon a true construction of section 266, having regard to the scope and intention of the section, the master is criminally responsible for sales carried out by his salesman. In such cases as Lord Russell pointed out the master is the seller, though not the actual salesman.

The other ground of appeal seems to me to be well-founded. It was not a case of selling diseased meat; the beef had merely been kept too long, and according to the Doctor, showed signs of starting decomposition. Decomposition was quite recent, and in the Doctor's opinion had only set in about half an hour before he

(1) (1898) 2 Q. B. 306.

1906. examined the meat. Taking into consideration the absence
October 4 of the appellant from the market, it cannot be assumed that he
LASCHELLES knew or had reason to believe that the meat was in a bad condition.
A.C.J. The conviction is quashed.

