

1924.

[IN REVISION.]

Present : Jayewardene A.J.WILSON *v.* APPUHAMY.*P. C. Nuwara Eliya, 6,442.*

*Habitual Criminals Ordinance—Police supervision—Failing to report—
Further conviction—Suspension of order—Conviction for crime—
Ordinance No. 32 of 1914, ss. 12, 13, and 14.*

Where an accused person who has been subjected to a term of police supervision under the Habitual Criminals Ordinance is convicted under section 14 of the Ordinance for failing to report himself, the order for police supervision is suspended while he is undergoing the latter sentence. An order for police supervision can only be made when a person has been convicted of a crime as defined in the Ordinance.

CASE referred to the Supreme Court by the Police Magistrate of Nuwara Eliya. The accused was convicted on May 25, 1922, and sentenced to undergo imprisonment for eight months, and thereafter to a term of police supervision for a period of three years under the Habitual Criminals Ordinance. He was then charged in the present case under section 13 of the Ordinance for failing to report himself, and on conviction the Magistrate passed an order subjecting him to police supervision for a period of eighteen months, in addition to imprisonment till the rising of the Court. The learned Police Magistrate was doubtful whether the last order for the police supervision was right.

Illangakoon, C.C., for the Crown.

September 8, 1924. JAYEWARDENE A.J.—

1924.

*Wilson v.
Appuhamy*

This case has been sent up for revision by the Police Magistrate of Nuwara Eliya. The facts are fully set out in the Magistrate's letter to the Registrar. The accused was convicted on May 25, 1922, and sentenced to undergo imprisonment for eight months, and thereafter under section 12 of Ordinance No. 32 of 1914 to undergo police supervision for a period of three years. Under section 13 of this Ordinance the accused failed to report himself as directed, and was, therefore, charged in the present case under section 14 for neglecting to do so. For this failure to report himself the learned Magistrate imprisoned the accused till the rising of the Court, and passed an order subjecting him to police supervision for a term of eighteen months. The Magistrate is doubtful whether the order passed by him directing the accused to report himself to the police is right. As the Magistrate rightly points out, an order for police supervision can only be made when a person has been convicted of a "crime" as defined in that Ordinance.

In my opinion a conviction under section 14 does not in any way affect the order for police supervision already passed.

If an accused is convicted for failure to report himself and is sentenced to a term of imprisonment, the order for police supervision would be merely suspended while he is serving his sentence. It would revive as soon as he is set free. So, in the present case, the accused's conviction would not affect his liability to report himself to the police as originally directed, but it would continue for the period fixed when he was convicted.

The order of the Magistrate subjecting the accused to police supervision for eighteen months is irregular and must be set aside.

The Magistrate should summon the accused before him and inform him that the period of police supervision imposed on him when he was convicted of a "crime" will continue till the expiration of three years commencing from the date of his discharge from jail after serving the term of imprisonment imposed on him when he was convicted on May 25, 1922.

Set aside.
