

1956

*Present : K. D. de Silva, J.*

M. I. M. THASSIM *et al.*, Appellants and K. S. KADIGAWA  
Respondent

*S. C. 560-561—M. C. Galle, 19,137*

*Butchers Ordinance (Cap. 201)—Charge of slaughtering cattle without a "special licence"—Validity.*

The permit contemplated in section 11 of the Butchers (Amendment) Ordinance No. 44 of 1947 is not the same thing as the special licence referred to in section 16 of the principal Ordinance. A charge, therefore, of slaughtering cattle without a "special licence" is not valid.

**A**PPPEAL from a judgment of the Magistrate's Court, Galle.

*A. C. Gunaratne*, for the accused-appellants.

*T. A. de S. Wijesundera*, Crown Counsel, for the Attorney-General.

September 28, 1956. K. D. DE SILVA, J.—

The two appellants were convicted under section 16 of the Butchers Ordinance (Chapter 201). The charge framed against them reads: "You are hereby charged that you did within the jurisdiction of this Court at Haliwela on 10.10.1955 not being a licensed butcher did slaughter cattle, to wit:— a red bull, without a special licence and thereby committed an offence punishable under section 16 of Chapter 201 I. E. C."

Mr. Gunaratne who appears for the appellants contends that the conviction cannot be sustained as the charge is defective. According to section 16 of the Butchers Ordinance a special licence is required. The prosecution has failed to realise that section 16 has been amended by Ordinance 44 of 1947. According to that amendment a special licence is no longer required. What is necessary is only a permit. In the charge framed against the appellants no reference has been made to the amending Ordinance.

Learned Crown Counsel submits that no prejudice has been caused to the appellants by the defect in the charge. I am not prepared to uphold the conviction on that ground. A special licence and a permit are two different things. When what is necessary is a permit an accused person cannot be expected to obtain a licence which perhaps is something more formal than a permit. The prosecution officer concerned has been very negligent in framing the charge against the appellants.

I set aside the conviction of the appellants and acquit them.

*Appeal allowed.*