

1943

*Present: Keuneman and Jayetileke JJ.*THE KING *v.* KALU BANDA.

38—D. C. (Crim.), Kandy, 166.

*Attorney-General—Authority to conduct prosecution before the District Court—Writing not required—Criminal Procedure Code, s. 201.*

The authority given by the Attorney-General to a pleader to prosecute before the District Court, required by section 201 of the Criminal Procedure Code, need not be in writing. Where a telegram from the Attorney-General is produced it is *prima facie* evidence of general authority.

**A** PPEAL from an order of acquittal entered by the District Judge of Kandy.

*D. Janszé, C.C., for Attorney-General.*

November 10, 1943. KEUNEMAN J.—

The Attorney-General in this case appeals against an order of acquittal entered by the District Judge under peculiar circumstances. When the case was called on this particular date Mr. Gunewardene appeared and

said that he appeared for the prosecution. He produced a state telegram signed by "AyG" clearly referring to the Attorney-General. In that telegram the Attorney-General has said:

You also have my general authority to conduct prosecutions in all cases committed for trial before the District Court of Kandy until I inform you to the contrary.

The telegram is dated May 11, and the proceedings in this case took place on May 17. The only point which the judge made was that he did not regard the telegram itself as an adequate document upon which he could act. On examination of section 201 of the Criminal Procedure Code it seems clear that a written authority is not demanded. The section runs as follows:—

"In every case before a District Judge the prosecution shall be conducted by the Attorney-General or the Solicitor-General or a Crown Counsel or by some pleader generally or specially authorised by the Attorney-General in that behalf."

There is no reference to the authority being given in writing by the Attorney-General. In this case the telegram itself was produced, and I think it was *prima facie* evidence that general authority of the Attorney-General was given to Mr. Gunewardene to conduct the prosecution. No doubt there may be cases where the judge is in doubt as to whether special or general authority has been given. In such cases it would perhaps be advisable to adjourn the trials until the matter is settled. In this particular instance there is no room for doubt that Mr. Gunewardene on that date was authorised to appear on behalf of the Attorney-General. In the circumstances, I set aside the order of acquittal, and send the case back for trial in due course before the District Judge.

JAYETILEKE J.—I agree.

*Set aside and sent back.*