

1921.

Present: De Sampayo J.

BORHAM v. SILVA.

1,090—P. C. Balapitiya, 147.

Unlawful gaming — Breach of Village Community rules — Exclusive jurisdiction of Village Tribunal.

The Village Tribunal has exclusive jurisdiction to try offences made punishable under Village Community rules, and such jurisdiction cannot be ousted by the Police Court even if the Magistrate thinks that the offence is of a serious nature.

*Goonetilleke v. Punchi Singho*¹ followed.

THE facts are set out in the judgment.

Amaresekera, for accused, appellant.

December 14, 1921. DE SAMPAYO J.—

This is a somewhat curious case. A police sergeant instituted this case in the Police Court charging a number of persons with having committed unlawful gaming in breach of rule 31 (12) of the rules framed under sections 6 and 17 of the Village Communities Ordinance, No. 24 of 1889. It strikes one at once that if the offence is committing a breach of the Village Community rules, the proper tribunal to try it is the Village Tribunal, even apart from the particular provision of the Village Communities Ordinance with regard to the exclusive jurisdiction in certain matters of the Village Tribunal. There is no aggravating circumstance in this case which may possibly give the offence a serious character, so that it may be said not to be adequately punished by the punitive jurisdiction of the Village Tribunal. This very point was decided in *Goonetilleke v. Punchi Singho*,¹ where the principle was established that the Village Tribunal had exclusive jurisdiction with respect to offences for the punishment of which a Village Committee has in terms of Ordinance No. 24 of 1889 made provision by rule, and that such jurisdiction cannot be ousted by the Police Court even if the Magistrate thinks that the offence is of a serious nature. I said this was a curious case, because the police made the charge under the rules framed under the Village Communities Ordinance, and yet instituted the case in the Police Court. This appeal is taken by the fifth accused, who has been fined Rs. 50. I think his appeal is entitled to succeed. The other accused was fined small sums, some of which have been paid, and therefore there is no necessity to consider their cases in any respect.

Set aside.

¹ 3 Bal. 113.