

1956

Present: Sansoni, J.

A. M. JAUFFER, Appellant, and N. W. ALEXANDER
(S. I. Police), Respondent

S. C. 1,497—M. C. Kandy, 2,495

Betting on Horse Racing Ordinance (Cap. 36)—Section 17 (b)—Possession of instruments of unlawful betting—Not an offence.

Possessing instruments of unlawful betting is not *per se* an offence under Section 17 (b) of the Betting on Horse Racing Ordinance.

APPPEAL from a judgment of the Magistrate's Court, Kandy.

P. Somatilakam, for the accused appellant.

V. S. A. Pullenayegum, Crown Counsel, for the Attorney-General.

March 21, 1956. SANSONI, J.—

I find that there is a charge-sheet in this case which charges the accused on two counts. On the first count he is charged with committing the offence of receiving or negotiating a bet on a horse race in breach of Section 3 (3) (b) of the Betting on Horse Racing Ordinance (Cap. 36). On the second count he is charged with having in his possession instruments of unlawful betting in breach of Section 17 (b) of the Ordinance. No offence is created by Section 17 (b), which only allows the Court to draw a presumption, under certain conditions when a person is found in possession of instruments of unlawful betting.

I find that this mistake as to what Section 17 (b) means is continually being repeated in cases that have come up in appeal. The learned Magistrate has fined the accused Rs. 250. I do not know whether he imposed this fine because he thought the accused had committed two offences or only one. One can only hope that in future there will be no such charge brought against an accused person as that he had in his possession instruments of unlawful betting.

The conviction and sentence on count 1 are affirmed. The conviction on count 2 is set aside.

Appeal allowed in part.