

1951

*Present: Gunasekara J.*EDWIN *et al.* Appellants, and SINNANHAMY, Respondent

S. C. 273-274—M. C. Galle, 18,956

Compounding of offence—Order of acquittal—Implementation of undertakings.

When an offence is compounded on certain undertakings being given, the accused is entitled to an order of acquittal forthwith.

A PPEAL from an order of the Magistrate's Court, Galle.

K. C. de Silva, for the accused appellants.

No appearance for the complainant respondent.

June 8, 1951. GUNASEKARA J.—

The two accused appellants were charged with committing criminal trespass, punishable under Section 433 of the Penal Code, and criminal intimidation punishable under Section 486 of the Penal Code. The proceedings had been initiated on a complaint made under Section 148 (1) (a) of the Criminal Procedure Code. The accused pleaded not guilty to the charges, and after some evidence had been taken at the trial, on the 16th October, 1950, the learned Magistrate noted that the case was "settled" on certain terms which are set out in the record. Thereafter various other steps were taken in the case, steps apparently regarded as necessary to be taken in court to ascertain whether certain undertakings that had been given were implemented. At one stage the 1st accused appellant admitted that he reaped the crop of the field in respect of which the offence of criminal trespass was alleged and was held by the Magistrate to have committed a breach of the order made by the court on 16th October, 1950. The 2nd accused thereupon agreed to deposit to the credit of this case a sum of Rs. 125 as representing the value of the crop, and after several further adjournments a sum of Rs. 125 was deposited by the appellants.

I presume that when the Magistrate recorded on the 16th October, 1950, that the case was settled, what he intended to convey was either that the offences were compounded with his approval, or that the complainant withdrew the charges with his approval. In either event the accused were entitled to an order of acquittal on that day. I am aware of no provision of the Criminal Procedure Code under which the proceedings taken thereafter were warranted.

I direct that the sum of Rs. 125 deposited by the appellants should be returned to them, and that the order of acquittal that ought to have been entered on the 16th October, 1950, be now entered.

Appeal allowed.