

1962

Present : Sri Skanda Rajah, J.

H. M. SIYATHU, Appellant, and INSPECTOR OF POLICE,
WELIMADA, Respondent

S. C. 824/62—M. C. Badulla, 34353

Criminal Procedure Code—Section 152 (3)—Scope—Penal Code, ss. 316, 317.

Where the words “ District Court ” as well as “ Magistrate’s Court ” in respect of an offence appear in column 8 of the first Schedule of the Criminal Procedure Code, a Magistrate, who is also a District Judge, is not entitled to assume jurisdiction under section 152 (3) of the Criminal Procedure Code in order to inflict a punishment in excess of what a Magistrate can lawfully impose.

A PPEAL from a judgment of the Magistrate’s Court, Badulla.

No appearance for Accused-Appellant.

G. P. S. de Silva, Crown Counsel, for the Attorney-General.

November 28, 1962. SRI SKANDA RAJAH, J.—

The appellant is not represented. I find that the Magistrate, who is also a District Judge, purported to assume jurisdiction under Section 152(3) of the Criminal Procedure Code. If the Magistrate had carefully referred to the first schedule of the Criminal Procedure Code he would have found that the charge of grievous hurt, namely under Section 316, is triable by the Magistrate’s Court. That is, it is a summary charge. I can understand if he had assumed jurisdiction if it was a charge under Section 317. When in column 8 of the first schedule the words “ District Court ” and “ Magistrate’s Court ” appear they do not empower the Magistrate to assume jurisdiction under Section 152(3). The charge is one triable by the Magistrate, qua Magistrate, as in this case.

He cannot assume jurisdiction under Section 152(3) in order to inflict a punishment in excess of the jurisdiction the Magistrate has. Therefore, I affirm the conviction under Section 316 and sentence him to six months’ rigorous imprisonment which the Magistrate could lawfully have imposed.

Sentence reduced.