

1953

Present : Rose C.J.

R. K. LANEROLLE, Appellant, and M. K. J. PERERA,
Respondent

S. C. 1,140—M. C. Nuwara Eliya, 7,287

Stolen property—Assisting in concealing or disposing of it—Penal Code, s. 396.

The mere assisting in obtaining the return of stolen property, even if it were done with a view to protecting the original thief, does not fall within the ambit of section 396 of the Penal Code.

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

M. M. Kumarakulasingham, with *Christie Fernando*, for the 2nd accused-appellant.

A. Mahendrarajah, Crown Counsel, for the Attorney-General.

October 1, 1953. ROSE C.J.—

In this case the appellant was convicted of an offence contra section 396 of the Penal Code. The position would appear to be, and learned Crown Counsel does not dispute, that the motive of the 2nd accused in this matter was to obtain the return of the stolen blankets by the 1st accused,

¹ (1938) 39 N. L. R. 337.

who admittedly had stolen them, to their lawful owner, with a view, no doubt, to preventing, if possible, the 1st accused from being prosecuted. While there can be no doubt that the conduct of the appellant in this case was foolish and indiscreet, it seems to me that the matter is covered by the principle that is explained in a case reported in *11 Criminal Law Journal of India at page 493*, where a section in identical terms with section 396 was under consideration and where it was held that the mere assisting in obtaining the return of stolen property, even if it were done with a view to protecting the original thief, does not fall within the ambit of this section. That being so, the appeal is allowed and the conviction quashed.

Appeal allowed.
