

1948

Present: Basnayake J.

LANTIS, Appellant, and MUSAFER (S. I. Police), Respondent.

*S. C. 71—M. C. Galle, 6,806**Betting on Horse-racing Ordinance—Receiving or negotiating a bet—Receipt of chit containing names of horses and rupee—Section 3 (3) (b).*

Accused accepted from one S a chit containing the names of three horses due to run that day at a horse-race at Secunderabad in India and a rupee in satisfaction of the bet. When the police arrived he had the chit and rupee in his hand. He had on the table in front of him a Sports newspaper containing the names of horses due to run that day at Secunderabad. There was also another chit containing the names of six of the horses mentioned in the newspaper.

Held, that in the circumstances the act of the accused in receiving the chit and the rupee constituted the receipt or negotiation of a bet. The fact that all steps connected with the receiving of the bet were not completed when the police arrived did not affect the matter.

APPPEAL from a judgment of the Magistrate, Galle.

H. W. Jayewardene, for the accused, appellant.

V. T. Thamotheram, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

April 5, 1948. BASNAYAKE J.—

The appellant has been found guilty of a breach of section 3 (3) (b) of the Betting on Horse-racing Ordinance and ordered to pay a

¹(1928) 30 N.L.R. 212.

²(1919) 2 K.B. 278 at 289.

fine of Rs. 350. That provision reads "Any person who receives or negotiates a bet on a horse-race other than a taxable bet shall be deemed to bet unlawfully on a horse-race and shall be guilty of an offence".

The evidence shows that on July 30, 1947, the appellant accepted from one Somapala who was employed by the police as a decoy a chit containing the names of three horses that were due to run that day at a horse-race at Secunderabad in India and a rupee in satisfaction of the bet. When the raiding officers entered the room in which the appellant was, he had, according to Sub-Inspector Musaffer, the chit and the rupee in his hand. He had on the table in front of him a Sports Newspaper containing the names of the horses due to run that day at Secunderabad. There was also another chit containing the names of six of the horses mentioned in the newspaper. He had with him Rs. 31 in the pocket of his banian and Rs. 3.95 in a pocket in his belt.

According to Sompala the rupee was not on the table and the appellant was scrutinizing the chit when Sub-Inspector Musaffer entered. Sompala says that it is the appellant's practice to give a commission of 20 cents on a rupee and return to the person placing the bet a "duplicate" of the chit containing the names of the horses. In this instance the police party entered before either the commission or the "duplicate" was given.

The question I have to decide is whether the act of the appellant in receiving the rupee and the chit in the circumstances of this case falls within the ambit of section 3 (3) (b) of the Betting on Horse-racing Ordinance. The expressions "bet" and "receive or negotiate" are not defined in the Ordinance nor does the context indicate that they are used in a special sense. They should therefore be construed according to their ordinary meaning. Murray's New English Dictionary defines a "bet" as the backing of a forecast by offering to forfeit in the case of an issue a sum of money or article of value to one who maintains the opposite and backs his opinion by a corresponding stipulation. When the appellant accepted the chit containing the forecast of the winners of some of the horse-races to be run at Secunderabad on that day and the rupee which the person making the forecast was prepared to forfeit in the case of an adverse issue, he received a bet within the contemplation of section 3 (3) (b). The fact that all the steps in connexion with the receiving of the bet were not completed when the police officers came on the scene, in my opinion, does not affect the matter. It is clear from the evidence that the bet accepted by the appellant is not a "taxable bet" as understood in the Ordinance. Secunderabad is a place outside Ceylon. The Ordinance makes no provision for registering race-courses outside the jurisdiction of our legislature. Apart from that, the words other than a taxable bet create an exemption or excuse the onus of proving which rests on the appellant. He should if he wants to excuse himself prove¹ that the bet is a taxable bet.

The appeal is dismissed.

Appeal allowed.

¹ Section 105 of the Evidence Ordinance.