1956 *Present :* Sansoni, J.

THAIBO, Appellant, *and* ABRAHAMS (S. I. Police), Respondent

S. C. 1,233—M. C. Matara, 40,773

Betting on Horse Racing Ordinance (Cap. 36)—Prosecution thereunder—Quantum of evidence—Sections 3 (3), 15, 17 (b).

In a prosecution for unlawful betting on a horse race, the presumption which is said to arise from the fact that the accused, when he was searched, was found to be in possession of betting slips can be relied on only if the conditions prescribed by Sections 15 and 17 (*b*) of the Betting on Horse Racing Ordinance were fulfilled.

APPEAL from a judgment of the Magistrate's Court, Matara.

C. S. Barr Kumarakulasinghe, for the accused appellant.

L. H. de Alwis, Crown Counsel, for the Attorney-General.

February 28, 1956. SANSONI, J.—

The only matter which has to be considered on this appeal is whether the prosecution has proved that the accused committed the offence of unlawful betting on a horse race, in breach of Section 3 (3) of the Betting on Horse Racing Ordinance (Cap. 36).

No evidence was led as to any betting having actually taken place. The prosecution relied on the presumption which was said to arise from the fact that the accused was arrested by Sub-Inspector Abrahams as he was walking along the road, and on being searched was found to be in possession of 25 betting slips. The presumption that the accused committed the offence could only have arisen if the conditions prescribed by Sections 15 and 17 (*b*) of the Ordinance were fulfilled. If the Sub-Inspector had recorded his grounds of suspicion that betting was being carried on in a particular place and the accused was found in that particular place, the position would have been different. But no particular place was mentioned in the record made by the Sub-Inspector nor was the accused even seen coming out of any particular place. The presumption therefore did not arise. The prosecution therefore failed entirely to prove that the accused committed any offence.

The appeal must be allowed and the accused acquitted.

Appeal allowed.