

1971

Present : Sirimane, J.

M. H. M. NOON, Appellant, and H. A. SIRISENA (S. I. Police),
Respondent

S. C. 14/71—M. C. Hambantota, 63576

Firearms Ordinance (Cap. 182)—Sections 22 (1), 45 (1)—Charge of possessing unlicensed gun—Accused dealt with under s. 325 of Criminal Procedure Code—Confiscation of the gun from its owner—Permissibility.

Where, in a prosecution for possessing an unlicensed gun in breach of section 22 (1) of the Firearms Ordinance, a verdict of guilt is recorded and the accused is dealt with under section 325 of the Criminal Procedure Code "without proceeding to conviction", the verdict of guilt amounts to a "conviction" for the purposes of the confiscation of the gun from its owner under section 45 (1) of the Firearms Ordinance.

APPEAL from an order of the Magistrate's Court, Hambantota.

Party noticed (appellant) absent and unrepresented.

N. J. Vilcassin, Crown Counsel, for the Attorney-General.

September 22, 1971. SIRIMANE, J.—

One Ariyadasa was charged with having in his possession an unlicensed gun in breach of Section 22 (1) of the Fire Arms Ordinance, Chapter 182. He pleaded guilty to the charge. The learned Magistrate acting under Section 325 of the Criminal Procedure Code ordered Ariyadasa to pay a sum of Rs. 25 as Crown costs.

The appellant, Noon, who was the owner of the gun was called upon to show cause why the gun should not be confiscated. He failed to show cause, and the learned Magistrate has made order confiscating the gun under Section 45 (1) of the Fire Arms Ordinance (Chapter 182).

Learned Crown Counsel brought to my notice that under this Section a person must be "convicted of an offence" under certain Sections of that Ordinance (which include Section 22) before a gun can be confiscated.

Though an accused is dealt with under Section 325 "without proceeding to conviction", yet I think that when a verdict of guilt is recorded, this amounts to a "conviction" for the purposes of confiscation of a gun under Section 45 (1).

The appeal is dismissed.

Appeal dismissed.