

Present : De Sampayo J.

1921.

GUNAWARDENE v. PUNCHIRALA *et al.*

*P. C. Kurunegala, 11,602.*

*Whipping—Theft of a bull—Jurisdiction of Police Court—Ordinance No. 4 of 1891.*

A Police Court has no jurisdiction, except where the offender is a person under sixteen years of age, to inflict whipping or lashes for theft of a bull under section 368 of the Penal Code.

THE facts appear from the judgment.

*M. W. H. de Silva, C.C.*, in support.

June 15, 1921. DE SAMPAYO J.—

In this case the accused was convicted of the offence of theft of a bull under section 368 of the Penal Code. The Magistrate sentenced him to six months' rigorous imprisonment and to receive twenty strokes with a rattan. The Penal Code does provide for whipping in the case of offences under section 368. The Police Court jurisdiction to inflict lashes is, however, limited. Under section 15 of the Criminal Procedure Code the Police Court is authorized to inflict whipping if the offender is under sixteen years of age. That provision does not apply in this case, because the accused person is not under that age, but is an adult. The only other provision authorizing the Police Court to inflict lashes is that contained in Ordinance No. 4 of 1891. The Magistrate, in making the present order, refers to that Ordinance as his authority. But he apparently made a mistake as to the extent of the power given to him under that Ordinance. Section 4 (a) gives a Police Magistrate jurisdiction in this respect only in cases of prosecutions for the offence of theft of prædial produce. The theft of a bull is a different thing. On the application of the Solicitor-General for revision of the sentence I make order deleting the sentence of whipping.

*Varied.*