

1946

*Present : de Silva J.*

SEKATHI, Appellant, and DAVOODU, Respondent.

422—*M. C. Puttalam, 33,149.*

*Toll rent—Chargeable on salt carried by boat to a particular place—Toll not leviable if boat merely touches at that place—Tolls Ordinance (Cap. 150), ss. 19, 20.*

Where toll rent was chargeable in respect of salt transported in a boat to a particular place, K—

*Held*, that salt carried to a destination other than K was not liable to toll even though the boat carrying the salt touched at K.

**A** PPEAL against a conviction from the Magistrate's Court, Puttalam.

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

No appearance for the complainant, respondent.

June 26, 1946. DE SILVA J.—

In this case, the charge made against the accused was that he, being a tindal of a boat, transported by boat from Puttalam to Kalpitiya 219 cwt. of salt without paying to the complainant a sum of Rs. 109·50 due on account of toll and that he had thereby committed an offence punishable under sections 19 and 20 of Chapter 150 of the Legislative Enactments, Vol. IV. After trial, the Magistrate found that the evidence of the prosecution that salt was unloaded at Kalpitiya was false and that the salt had been taken to Kalpitiya for the purpose of obtaining a permit to take the salt to another destination. The Magistrate, on his findings, convicted the accused and fined him a sum of Rs. 50 of which he ordered that Rs. 45 be paid to the complainant as compensation for toll rent.

It is clear that toll can be charged only in respect of certain goods transported to Kalpitiya or to a place within one mile on either side of Kalpitiya. The concession of charging toll rent is given to the complainant who carries on a ferry service between Puttalam and Kalpitiya. One of the conditions in his licence is that no toll rent shall be charged for any salt carried from Puttalam to any place other than Kalpitiya and one mile on either side of the jetties at the said places. It seems clear that salt carried to a destination other than Kalpitiya or within a mile on either side of Kalpitiya is not liable to toll even though the boat carrying the salt touches at Kalpitiya. I set aside the conviction and acquit the accused.

*Appeal allowed.*