

1945

Present: Keuneman S.P.J.

SUGATHAPALA, Appellant, and WIJESINGHE (EXCISE INSPECTOR), Respondent.

868—M. C. Colombo, 48,883.

*Causing disappearance of evidence of an offence committed, to screen the offender—
Evidence should disclose a particular offender—Penal Code, s. 198.*

In a prosecution, under section 198 of the Penal Code, for causing disappearance of evidence of an offence in order to screen the offender, there should be evidence that the intention of the accused was to screen the offender.

A PPEAL against a conviction by the Magistrate of Colombo.

H. A. Koattagoda, for the accused, appellant.

P. S. W. Abeyewardene, C.C., for the Attorney-General.

September 13, 1945. KEUNEMAN S.P.J.—

The accused was charged under section 198 of the Penal Code in that knowing or having reason to believe that an offence had been committed, he caused evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment. The only evidence in the case is that the Excise Inspector and the Guard had lowered some pots from trees in the garden of one Costa of Nawala. The toddy was collected into one pot and left on the ground. Apparently the pots contained fermented toddy. At this stage the accused came and wanted some toddy for a devil dancing ceremony. The Inspector refused to give him the fermented toddy. The accused then smashed a pot which was sealed and which was a production in another case and kicked a further pot in which the fermented toddy taken in this garden had been placed. We do not know in this case who the offender was in connection with the fermented toddy, and there is not a scrap of evidence to suggest any connection between this accused and the offender or the probable offender with regard to the fermented toddy. The Magistrate was of opinion that the accused's asking the Inspector for toddy was merely a pretext. I must confess that there does not appear in the evidence any reason for so holding, but even if this was merely a pretext I think the case fails because there is no evidence to show that the intention of this accused was to screen the offender. I think on this point I must set aside the judgment of the Magistrate and acquit the accused.

Certain other points have also been argued, but it is not necessary to decide them here.

Appeal allowed.

