

1903.
April 30.

THE KING v. HARMANIS.

D. C. Galle, 13,174.

*Forgery—Charge against surety of forgery of document produced by him—
Criminal Procedure Code, s. 147 (1)—Party to case in Police Court
—Sanction of Attorney-General.*

A person by offering himself as surety for an accused party in a Police Court case and producing to the chief clerk of the Court a document to show his worth does not constitute himself a party to the case in the sense of section 147 (c) of the Criminal Procedure Code, and the production of the document does not amount to its being given in evidence in the case.

It is therefore not necessary for the prosecution of such person for forgery of the document tendered by him that the sanction of the Attorney-General should be obtained.

Sub-section (c) of section 147 (1) of the Criminal Procedure Code refers only to certain offences committed by a party to a proceeding in any Court in respect of a document given in evidence in such proceeding.

THE accused above named was charged under section 459 of the Ceylon Penal Code with fraudulently using as genuine a forged document knowing and having reason to believe that it was a forgery, and was discharged by the District Judge of Galle on the 17th day of March, 1903, on the ground that that Court had no jurisdiction. The Court held:—

“ Kirineris was ordered in Police Court, Galle, 16,754, to give bail for Rs. 100 with two sureties to be of good behaviour for six months in terms of the 83rd section of the Criminal Procedure Code. On the 3rd July, 1902, Weligamage Harmanis offered himself as surety and produced the alleged forged document marked ‘A’ to the chief clerk of the Police Court, Galle, who accepted it as evidence of the worth of Weligamage Harmanis, and on it Harmanis was allowed to give bail for Kirineris and Kirineris was released.

" I hold that the document ' A ' was given in evidence in Police Court, Galle, 16,754, by the accused Harmanis, who as surety for the accused was a party to the proceeding under section 147 (c). 1903.
April 30.
LAYARD, C.J.

" Sanction of the Hon. the Attorney-General was necessary for the prosecution of Harmanis. "

Dissatisfied with the above order of discharge, the Attorney-General appealed.

Fernando, C.C., for appellant.

No appearance for respondent.

30th April, 1903. LAYARD, C.J.—

I understand the facts of this case to be that when the accused Weligamage Harmanis, on the 3rd July, 1902, offered himself as surety for one Kirineris he produced the alleged forged document to the chief clerk of the Police Court of Galle for the purpose of showing that he, Weligamage Harmanis, was worth the sum of Rs. 100 and was a fit and proper person to be accepted as surety. The District Judge has held that such production amounts to the giving of the document marked " A " in evidence, in the Police Court of Galle, and so constituted Harmanis a party to the proceeding in a Police Court case then pending, and he proceeds to find that under these circumstances the sanction of the Attorney-General was necessary before a magisterial inquiry could be made into the offence alleged to have been committed by Weligamage Harmanis; and that in view of section 147, sub-section (c), of the Criminal Procedure Code, the Police Court of Galle had no authority to take cognizance of the offence alleged to have been committed by Weligamage Harmanis, and consequently had no power to convict him for trial before the District Court of Galle.

Now, sub-section (c) of section 147 only refers to such offences as may have been committed by a party to any proceedings in any Court in respect of a document given in evidence in such proceedings. The District Judge says that Harmanis was a party to the case in the Police Court of Galle. I am unable to understand how he finds that a person who tenders himself as surety to a party in a Police Court case can be held to be a party to the proceedings then pending in the Court. I am also unable to understand how the tendering of the document " A " to the chief clerk of the Police Court of Galle can be construed into giving it in evidence in the Police Court case.

The judgment of the District Court must be reversed and the case remitted to be proceeded with in due course of law.