

Present: Mr. Justice Wood Renton.

1907.
June 24.

ARIAPODY v. SEENITAMBY.

P. C., Batticaloa, 24,581.

Mischief—Shooting a buffalo—Jurisdiction of Police Court—Ceylon Penal Code, ss. 411 and 412.

A charge of mischief for shooting a buffalo is punishable under section 412 of the Penal Code and is not summarily triable by a Police Court.

Baiya v. Nikulas;¹ *Silva v. Andris*;² and P. C., Panadure, 25,165,³ followed.

THE accused was charged with mischief under section 411 of the Penal Code, in that he shot a buffalo of the value of Rs. 45; he was convicted and sentenced to three months' rigorous imprisonment.

In appeal.

H. A. Jayewardene, for the accused-appellant.—The offence of mischief by killing a buffalo is punishable under section 412 of the Penal Code. The general provisions of section 411 are controlled by section 412 in respect of certain animals; as regards those animals the value is immaterial. The Police Magistrate should have taken non-summary proceedings. There are several recent decisions to this effect, viz., *Baiya v. Nikulas*,¹ *Silva v. Andris*,² and P. C., Panadure, 25,165.³ The judgment of Burnside C.J., in *Banda v. Somalia*⁴ has not been followed in these cases.

24th June, 1907. WOOD RENTON J.—

I set aside the conviction and send the case back for non-summary proceedings in due course. I have nothing to add to what I said on this subject in *Baiya v. Nikulas*¹ and to what has been said by my brothers Middleton and Grenier in the two cases cited by Mr. Hector Jayewardene on behalf of the appellant, viz., *Silva v. Andris*² and P. C., Panadure, 25,165.³

Conviction quashed.

¹ (1906) 1 App. Court Rep. 49.

² S. C. Min., June 5, 1907.

³ (1907) 10 N. L. R. 203.

⁴ (1892) 1 S. C. R. 26.