

1921.

Present : De Sampayo J.

JAYASINGHE *v.* SILVA.

848—*P. C. Kandy, 6,624.*

Cruelty to animals—General instructions by owner to carters not to use bulls with injuries—Charge against owner.

The accused who was a cart contractor owning several carts and bulls was charged with having permitted his carters to use animals with sore necks and which were unfit for use. The accused pleaded that he had given general orders to his carters not to use bulls with injuries.

Held, that it was not a defence to the charge.

THE facts appear from the judgment.

H. V. Perera, for appellant.

Bartholomeusz, for respondent.

September 16, 1921. DE SAMPAYO J.—

1921.

Jayasinghe
v. Silva

This is a prosecution under the Prevention of Cruelty to Animals Ordinance. The accused was a contractor owning 18 pairs of bulls and as many carts, which were driven by carters employed by him. Three of these carters, Suaris, Sundara, and Kalu Banda, appear to have been prosecuted for using in the carts given to them animals unfit for use. In the present case the Inspector of the Society for the Prevention of Cruelty to Animals charged the accused with having permitted the men named to use the animals on the respective dates. Of these charges, the Magistrate has selected one, namely, the case in which Banda had used a pair of bulls on June 13 last. By reason of the fact the Inspector gave evidence in regard to all the cases the evidence is not clear, but it has been sufficiently proved that the animals used by Banda on June 13 had sore necks. The defence practically is that the accused was not aware that the bulls had these injuries, and, therefore, it cannot be said that he permitted Banda to use them in that condition. It is hardly possible to prove knowledge by direct evidence. It appears, however, that the accused's bulls and carts were kept in the garden behind his house, and it is not an unfair inference that the accused saw and knew the condition of the animals in that garden. The accused further suggests that the particular pair of bulls went a long distance, and that when they started from his premises they had no sore necks, but on account of the hilly nature of the road over which the cart passed with goods and the length of the journey had these contusions on their return. If that be the state of affairs, undoubtedly the accused cannot be said to have permitted animals with sore necks to be used in his carts. But the evidence of the Veterinary Surgeon of Kandy and the other evidence in the case appear to negative the idea of the bulls getting these contusions after they left the accused's premises. The accused, however, stated in his defence that he had given general orders to his carters not to use bulls with injuries, and that if Banda, in the present case, had used the bulls in an unfit condition, he did so against his own orders. I agree with the Magistrate that it is not enough for the owner of a large number of animals to give general orders like this. This is all the more so, as in this case the "gala" is situated in the very premises of the accused's house, and was under the direct control of the accused. In this connection I am indebted to Mr. Bartholomeusz for reference to the case *Fernando v. Pedro Appuhamy*,¹ in which Acting Chief Justice Shaw took the same view as regards a plea of ignorance and as regards general orders of the kind I have mentioned. I am unable to interfere in this case.

The appeal is dismissed.

Appeal dismissed.