

1952

Present : Pulle J.

M. E. DE SILVA, Appellant, and CROOS, Respondent

S. C. 1,218—J. M. C. Colombo, 39,123

Companies Ordinance, No. 51 of 1938—Section 110 (1) and (2)—Failure to hold general meeting—A material ingredient of charge.

In a prosecution under section 110 of the Companies Ordinance for failure to hold a general meeting of a Company—

Held, that the charge should set out, in terms of sub-section 2 of section 110 that the offender was “knowingly a party to the default”.

APPPEAL from a judgment of the Joint Magistrate’s Court, Colombo

N. M. de Silva, for the accused appellant.

A. Mahendrarajah, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

April 24, 1952. PULLE J.—

The appellant who is the Managing Director of a Company incorporated under the Companies Ordinance, No. 51 of 1938, was charged with and convicted of failing to hold a general meeting of the Company in the calendar year of 1949. The charge alleged a breach of sub-section 1 of section 110 of the Ordinance and the commission of the offence under sub-section 2.

Section 110 (1) provides that a general meeting of every Company shall be held once at least in every calendar year. If default is made in holding a meeting sub-section 2 provides, *inter alia*, that every director or manager of the company who is knowingly a party to the default shall be guilty of an offence.

In my opinion the charge which states nothing more than that the appellant failed, in his capacity of managing director, to hold a meeting discloses no offence. The material ingredient in sub-section 2 is that the offender is “knowingly a party to the default”, but this is not set out in the charge with the result that the appellant has been convicted of an offence not known to the law.

The conviction and sentence are, therefore, quashed.

Conviction quashed.