

1954

*Present : Swan J.*

P. KANAGARATNAM, Appellant, and W. A. BARTHOLOMEUSZ  
(Inspector of Police), Respondent

*S. C. 438—J. M. C. Colombo, 44,201*

*Penal Code—Cheating—Section 403—Meaning of term “ property ”.*

<sup>0</sup> In a prosecution under section 403 of the Penal Code for cheating and dishonestly inducing a delivery of property, it was proved that the accused had deceived the Assistant Controller of Exchange into believing that he, the accused, had not purchased foreign exchange for travel for the year 1950 and thereby had induced the Assistant Controller to deliver to the accused a permit for foreign exchange for travel to the value of Rs. 750.

*Held*, that a permit for foreign exchange for travel could be regarded as “ property ” within the meaning of section 403 of the Penal Code.

<sup>1</sup> (1953) 55 N. L. R. 322 ; 50 C. L. W. 10.

<sup>2</sup> (1949) 39 C. L. W. 79.

**A**PPPEAL from a judgment of the Joint Magistrate's Court, Colombo.

*S. Nadesan*, with *T. K. Curtis*, for the accused appellant.

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

*Cur. adv. vult.*

April 5, 1954. SWAN J.—

The appellant was charged on two counts:—(1) that between 21st July 1950 and 27th July 1950, he deceived the Assistant Controller of Exchange into believing that he, the appellant, had not purchased foreign exchange for travel for the year 1950 and thereby induced him to deliver to the appellant a permit for foreign exchange for travel to the value of Rs. 750 and thereby committed an offence punishable under section 403 of the Penal Code.

(2) that he had at the same time and in the course of the same transaction made a declaration which he knew to be false touching a material point in his application and thereby committed an offence punishable under section 196 of the Penal Code.

The learned Magistrate acquitted him on the second count but found him guilty on the first and sentenced him to six weeks' rigorous imprisonment. It is contended on behalf of the appellant that the offence, if any, of which he could have been convicted was of cheating under section 400 inasmuch as the permit which he induced the Assistant Controller of Exchange to deliver to him could not be regarded as *property* within the meaning of section 403. In my opinion it would come within the ambit of the term *property*. Dealing with the corresponding section of the Indian Penal Code, to wit section 419, Rattanlal and Thackore in their treatise on The Law of Crimes (18th Ed.) at page 1058 make this comment:—

“Whether an article is or is not *property* does not depend on its possessing a money or market value. If it has some special value for the person or persons concerned it is *property*, even though its value cannot be measured in money.”

Among the cases referred to by the learned authors are (1) *In re Packianathan*<sup>1</sup> where a person who had fraudulently induced a health officer to give him a health certificate was convicted under section 419 and (2) *Local Government v. Gangaram*<sup>2</sup> where a certificate of having passed a certain examination was held to be *property* within the meaning of the section.

I see no reason to interfere with the conviction or sentence. The appeal is dismissed.

*Appeal dismissed.*

<sup>1</sup> 21 Cr. L. J. 478.

<sup>2</sup> 23 Cr. L. J. 443.