

HASSIM v. CAROLIS.

1905.

*P. G., Ratnapura, 1,694.*

*February 13.*

*Driving cart after dark without lamps—Moonlight night—Ordinance No. 16 of 1865, s. 53, sub-s. 9.*

It is an offence under sub-section 9 of section 53 of Ordinance No. 16 of 1865 to drive or lead a conveyance or cart after dark and before daylight without lighted lanterns, although the night is a moonlight night.

THE accused in this case was charged at the instance of the police under sub-section 9 of section 53 of Ordinance No. 16 of 1865 with having on the 17th January, 1905, driven his hackery on the public road after dark and before daylight without lighted lanterns. He was acquitted on the ground that the night in question was a moonlight night.

Against this acquittal the Attorney-General appealed.

The case came up for argument before Grenier, A.J., on the 10th February, 1905.

*Rámanáthan, S.-G.,* for appellant.

There was no appearance for respondent.

13th February, 1905. GRENIER, J.—

This is an appeal by the Attorney-General from a decision of the Police Magistrate of Ratnapura, in which he holds that no offence was committed by the accused because it was on a moonlight night that he drove his hackery on the public road without lights. The proceedings appear to have been remarkably brief; no evidence was recorded.

The acquittal is clearly bad, because I cannot find that the Ordinance draws any distinction whatever between dark nights and moonlight nights. Sub-section 9 of section 53 of Ordinance No. 16 of 1865, under which the charge was laid, makes it an offence if "any person drives or leads any conveyance or cart after dark and before daylight without lighted lanterns," and there is no exception made in favour of a moonlight night.

The acquittal must be set aside and the case sent back for trial on the merits.

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