

1922.

Present : Bertram C.J.

GOONERATNA *v.* SILVA.

26—*P. C. Ratnapura, 19,691.*

Police Ordinance, s. 90—Discharge of fireworks—Not necessary to prove that peace of inhabitants was disturbed.

The prohibition against the discharge of fireworks or crackers in section 90 of the Police Ordinance, 1865, is absolute. It is not necessary to show that the peace of the inhabitants was likely to be disturbed, or that any horses were likely to be frightened.

Jansz, C.C., for the Crown, appellant.

January 31, 1922. BERTRAM C.J.—

In this case the Magistrate has clearly fallen into an error. The prohibition against the discharge of fireworks or crackers in section 90 of the Police Ordinance, 1865, is absolute. It is not necessary to show that the peace of the inhabitants was likely to be disturbed, or that any horses were likely to be frightened. The section has been recently expounded in a judgment of my brother Schneider, to which I will refer the Magistrate (*Inspector of Police v. de Soysa*¹). Of course, it is open to the Magistrate, if he thinks that the prosecution in the circumstances of the case is vexatious, to inflict a small or even a nominal fine. Still, something should be done, either in the way of a fine or a warning, to bring it home to members of the public that firework displays cannot be given without a police license. The case must go back for trial.

Sent back.

¹ (1916) 3 C. W. R. 172.