

1946

*Present : Howard C.J.*

MOOSIN, Appellant, and GALLE POLICE, Respondent.

1,676—*M. C. Galle, 47,941.**Dishonest receipt of stolen property—Accused's explanation false—Inference of guilt—Penal Code, s. 394.*

In a prosecution for dishonest receipt of stolen property, under section 394 of the Penal Code, if there are circumstances which entitle the Court to say that the accused's explanation is false, then such explanation cannot be considered reasonable.

**A** PPEAL against a conviction from the Magistrate's Court, Galle.

*C. E. S. Perera* (with him *S. W. Jayasuriya*), for the accused, appellant.

*H. A. Wijemanne, C.C.*, for the Attorney-General.

March 6, 1946. HOWARD C.J.—

I agree with Mr. Perera that if an accused person offers an explanation which may reasonably be true, although the Court is not convinced that it is true, he is entitled to be acquitted. The accused in this case has given an explanation, but at the same time, if there are circumstances which entitle the Court to say that the accused's explanation is false, then such explanation cannot be considered reasonable. There is no doubt that the property found in the possession of the accused was stolen property. As I have already said, the accused has offered an explanation; but are there any circumstances which entitle the Court to say that that explanation is false?

The accused bought the articles from the 3rd officer of a ship. It was not a matter of buying a few articles. He bought altogether two cases of Nestle's Condensed Milk, one case of Vermouth, one case of cheese and three cases of Horlick's Malted Milk. These articles altogether had a value of Rs. 409. The articles were collected by the accused in the early hours of the morning and were in fact found by the Police in a cart. It seems to me that the fact that so many articles were bought, that they were bought from the officer of a ship and that they were delivered in the early hours of the morning are circumstances which show that the accused's explanation was false. In other words, he knew that the goods were stolen. In these circumstances the appeal against the conviction is dismissed. In view of the fact that the chief offender, the 3rd officer of the ship, was fined Rs. 500, I vary the sentence which has been passed on the accused and direct that instead of undergoing a term of 4 months' rigorous imprisonment he should pay a fine of Rs. 300, in default 2 months' rigorous imprisonment.

*Conviction affirmed.*

*Sentence varied.*

