

DEW v. ANGAMUTTU.

1896.  
August 18.

P. C., Hatton, 21,021.

*Arrest by private person—Pursuit of offender—Lawful custody—Criminal Procedure Code, s. 36.*

A private person, in whose view theft is being committed in his estate, may, so long as he keeps the offender in sight, pursue him into a neighbouring estate and catch him there so as to make his apprehension lawful custody.

THE facts of the case sufficiently appear in the judgment.

*Wendt*, for appellant.

18th August, 1896. WITHERS, J.—

The defendant was charged with the offence of escaping from lawful custody, and has been sentenced to one month's rigorous imprisonment.

No leave was given to appeal, but Mr. Wendt put forward on behalf of the accused a point of law, and the point of law was that the man was not in the lawful custody of Mr. Dew when he shook himself from Mr. Dew's grasp and ran away. It appears that Mr. Dew had seen this man stealing grass from his estate, and having seen him he ran after him to catch him and take him into custody. The man ran across to the neighbouring estate, in which he appears to have been employed, and the complainant overtook him and apprehended him. Before he could take him before the Magistrate to charge with the offence the man struggled hard to get away and got away.

It was contended that while Mr. Dew might have arrested him without a warrant for committing in his presence a cognizable offence, he had no authority to pursue him and arrest him outside his own property.

Counsel relied on section 36 of the Criminal Procedure Code, which, it was argued, limited a private person's right to arrest on or at the spot where the offence is being committed.

However, in the absence of any authority I am prepared to hold that so long as Mr. Dew kept the thief in sight, he was at liberty to pursue him into the next estate and catch him, so as to make his apprehension lawful custody, so I think the point of law is not a sufficiently good one.