

1935

*Present : Soertsz A.J.*SILVA *v.* SALA GURU.255—*P. C. Dandagamuwa, 16,535.*

Goat—Theft of goat—Exclusive Jurisdiction of Village Tribunal—Penal Code, s. 368.

Theft of a goat is not punishable under section 368 of the Penal Code.

A PPEAL from an order of the Police Magistrate of Dandagamuwa.

June 25, 1935. SOERTSZ A.J.—

The complainant appeals from the order of the Police Magistrate referring him to the Village Tribunal which the Magistrate says has exclusive jurisdiction. The charge was laid under section 368 and related to the theft of a goat. The schedule to the Village Communities Ordinance, No. 9 of 1924, read with section 61 gives the Village Tribunal exclusive jurisdiction in cases under section 366 except when the stolen property is produce of a plantation, or exceeds Rs. 20 in value or where the theft is accompanied by violence to person. Those exceptions do not apply in this case, and the Police Magistrate, therefore, regarded this as a case in which the Village Tribunal has exclusive jurisdiction. He is right in this view, unless the charge has been rightly laid under section 368 of the Penal Code. The Village Tribunal has no jurisdiction in regard to offences under section 368. Section 368 provides for cases of theft of (a) any bull, cow, steer, buffalo, heifer, or calf. Is a goat any one of these? I do not think it is. The bull belongs to the species *Bos*. According to the Imperial English Dictionary a bull is the male of any *bovine* quadruped, or of the different species of the genus *Bos*. Cow, steer, buffalo, heifer, calf are all said to fall under the genus *Bos*. A goat, according to the same dictionary is a well-known horned ruminant quadruped of the genus

Capra. I, therefore, am of opinion that section 368 does not apply. I agree, however, that it is desirable that a case such as this should be tried in the Police Court. Section 64 of the Village Communities Ordinance provides a method by which it may be possible to obtain such a trial.

The appeal must be dismissed.

Appeal dismissed.

