

Present : De Sampayo J.

1918.

SINNAPPU v. SILVA.

134—P. C. Kalutara, 46,329.

Offence committed beyond the territorial waters of Ceylon—Jurisdiction—Criminal Procedure Code, s. 136.

The accused, who were fishermen of Kalutara, were charged with having committed robbery of fish worth Rs. 4 from other fishermen who went out to sea in *katumarams* from Kalutara. This took place at a part of the sea which was beyond the limits of the territorial waters of Ceylon.

Held, that the Police Court of Kalutara had jurisdiction.

THE facts are set out in the judgment.

No appearance for appellant.

Garvin, S.-G. (with him *Dias, C. C.*), for respondent.

March 12, 1918. DE SAMPAYO J.—

This case raises a very important question with regard to the jurisdiction of a Police Court to try offences committed on the high seas. The accused were charged in the Police Court of Kalutara with having committed robbery of some fish and prawns of the value of Rs. 4, the property of one Sinnappu, and were convicted and sentenced to various terms of imprisonment. It appears that Sinnappu and three or four others, who are fishermen of India and have recently come to Kalutara for the purpose of fishing, went out to sea in *katumarams*, and the accused, who are Sinhalese men of Kalutara, came in a boat, threatened to beat them with oars, and forcibly took away the fish and prawns which they had caught. It transpired in the course of the evidence that this happened on a part of the sea which is beyond the limits of the territorial waters of Ceylon. The question then is, whether the Police Court of Kalutara had jurisdiction to try the accused.

The local Legislature has not provided, and has no power to provide, against offences committed beyond the territorial limits of the Colony. There are, however, certain Imperial Statutes which deal with the matter. Section 1 of 12 and 13 Vict., c. 96, which relates to the prosecution and trial in the Colonies of offences within the jurisdiction of the Admiralty, enacts that—

If any person within any Colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence of what nature or kind soever committed upon the sea

1918.

DE SAMPAYO
J.
*Sinnappu v.
Silva*

where the Admiral or Admirals have power, authority, or jurisdiction, or if the person shall be brought to trial to any Colony, then and in every such case all Magistrates, Justices of the Peace, public prosecutors, juries, Judges, Courts, public officers, and other persons in such Colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences ...as by the law of such Colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such Colony and within the limits of the local jurisdiction of the Courts of Criminal Justice of such Colony.

It need hardly be stated that the "Admiral" is an officer of the Crown, exercising its jurisdiction, both executive and judicial, over all matters arising upon the high seas. The effect of the Statute is to confer jurisdiction on the Criminal Courts of the Colonies in respect of offences committed on the high seas. Certain doubts having arisen as to whether the punishment should not still be according to English law, the later Statute, 37 and 38 Vict., c 27, enacted that "when, by virtue of any act of Parliament now or hereafter to be passed, a person is tried in a Court of any Colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such Colony and of the local jurisdiction of such Court, such person shall, upon conviction, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such Colony and of the local jurisdiction of such Court." Consequently, a person may not only be tried in Ceylon for any offence committed on the high seas, but be punished according to the law of Ceylon. The only remaining question is, What particular Criminal Court shall take cognizance of the offence? Here comes in section 136 of the Criminal Procedure Code, which provides that in the case of offences committed on the territorial waters of the Colony the District Court or Police Court within the local limits of which an accused may be or be found shall have jurisdiction. If the present offence had been committed on the territorial waters of Ceylon, the Police Court of Kalutara would under that section have had jurisdiction, because the accused were and were found within its local limits, and, therefore, by operation of section 1 of the Imperial Statute, 12 and 13 Vict., c. 96, above quoted, the Police Court of Kalutara had jurisdiction in respect of the offence, though committed on the high seas.

There is no good reason for interfering with the conviction on its merits. The appeal is dismissed.

Appeal dismissed.