

Lambandusuriya v. Robins (Superintendent of Police) 49 NLR 159, S. C. 529-M. C. Colombo, 25,267, Appeal from a judgment of the Magistrate, Colombo. Decided on June 15, 1948.

Wijeyewardene A.C.J.

The accused was charged for accepting a gratification other than legal remuneration as a reward for doing an official act in the exercise of his official functions, obtaining from the Government Agent, a permit to cut and remove earth from the premises of the Government Girls' School.

Non-summary proceedings were instituted on this charge but was later discovered that the accused was charged with a summary offence hence The Magistrate, discharged the accused and ordered the Police to file a fresh plaint which was heard before another Magistrate who convicted the accused and sentenced him to six weeks imprisonment

Held;

Magistrate has rejected without due consideration the evidence of the accused that he wanted to raise a loan for the purchase of a cycle. Mr. Siriwardene received a telephone message from Mr. Ranasinha for the accused and that Mr. Ranasinha said that the loan would be ready. As soon as the accused was arrested he told the Inspector that "the money was received as a loan". It was argued by Crown Counsel that even if the sum was taken as a loan, yet the accused would be guilty of an offence under section 158 of the Penal Code, if the loan was asked for and obtained as a reward for the accused showing some favour to Ranasinha in the exercise of his official functions.

Crown has not proved beyond reasonable doubt the charge preferred against the accused. Accused acquitted.

Appeal allowed.