

ATTORNEY-GENERAL Appellant

v.

ALBERT MARGAI Respondent

Edmondson,
Ag.J.

[Magistrate Appeal 41/59]

Criminal procedure—Offence under Motor Traffic Ordinance (Cap. 148, Laws of Sierra Leone, 1946) s. 6—Whether summons issued in time—Whether Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43) in force in Sierra Leone—Effect of Summary Jurisdiction Act, 1848, s. 11—Meaning of “making any such complaint or laying any such information.”

Respondent was charged in a magistrate’s court with an offence under section 6 of the Motor Traffic Ordinance. The summons was issued about ten months after the alleged offence took place. The magistrate held that the English Summary Jurisdiction Act, 1848, was in force in Sierra Leone, and that, under section 11 of that Act, the summons was issued too late. The Attorney-General appealed.

Section 11 of the Summary Jurisdiction Act states: “In all cases where no time is . . . specially limited for making any such complaint or laying any such information . . . such complaint shall be made and such information shall be laid within six . . . months from the time when the matter of such complaint . . . arose.” Counsel for respondent argued that the issuing of a summons was in Sierra Leone the same as making a complaint or laying an information.

Held, allowing the appeal, (1) that the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43) is in force in Sierra Leone; but

(2) that, since “there is no evidence on the record to show when the complaint was made or the information laid”, there was no evidence that what was done was contrary to the Summary Jurisdiction Act, 1848.

Case referred to: *Seward v. The Vera Cruz* (1884) 10 App.Cas. 59, 52 L.T. 474.

John H. Smythe for the appellant.

Gershon B. O. Collier for the respondent.

EDMONDSON AG. J. This is an appeal by the Attorney-General against the decision by the magistrate in dismissing a summons against the respondent in respect of an offence under the Motor Traffic Ordinance (Cap. 148), s. 6.

The learned trial magistrate held that the provisions of section 11 of the Summary Jurisdiction Act, 1848, applied by virtue of section 38 of Cap. 50 and that as the summons was issued about ten months after the alleged offence took place the summons was out of time.

Section 11 of the Summary Jurisdiction Act, 1848, reads as follows:

“In all cases where no time is already or shall hereafter be specially limited for making any such complaint or laying any such information in the Act or Acts of Parliament relating to each particular case, such complaint shall be made and such information shall be laid within six calendar months from the time when the matter of such complaint or information respectively arose.”

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Counsel for the Appellant contends that the Summary Jurisdiction Act, 1848, does not apply to Sierra Leone as the summary procedure in Sierra Leone is laid down by the Criminal Procedure Ordinance (Cap. 52) and the Summary Conviction Offences Ordinance (Cap. 225). He further contended that the English statutes made applicable to Sierra Leone were only applicable as a whole or not at all and that as neither the Criminal Procedure Ordinance nor the Motor Traffic Ordinance referred to time the summons could have been issued at any time after the alleged offence took place.

Counsel for the respondent contended that the Summary Jurisdiction Act, 1848, applied and that the summons was out of time.

After hearing both counsel I asked them to study the language of section 11 of the Summary Jurisdiction Act, 1848, as to the meaning of "making a complaint and laying an information." Counsel for the respondent contended that the issuing of a summons was in Sierra Leone the same as making a complaint or laying an information. With this argument I cannot agree.

In my opinion the Summary Jurisdiction Act, 1848, applies to Sierra Leone by virtue of section 38 of Cap. 50. The Interpretation Ordinance of Sierra Leone (Cap. 1), s. 4 (b) reads as follows: "Words in the singular include the plural and words in the plural include the singular." Consequently it is not necessary that every section of an English Act in force on January 1, 1880, should be applicable to Sierra Leone. Such an English Act is subject to the provisions (or any provision) of a local ordinance.

The silence of the Motor Traffic Ordinance (Cap. 148) as to time does not change the position. "Generalia Specialibus non derogant." I quote the following words from the judgment of Lord Selborne in the case of *Seward v. The Vera Cruz* (1884) 10 App.Cas. 59:

"Where general words in a later Act are capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation that earlier and special legislation is not to be held indirectly repealed, altered or derogated from merely by force of such general words, without any indication of a particular intention to do so."

There are many cases which support this proposition. The Motor Traffic Ordinance was subsequent in time to the Summary Jurisdiction Act but cannot derogate from the provisions of section 11 of the Act.

I find that the learned trial magistrate misconceived the meaning of section 11 of the Summary Jurisdiction Act, 1848, in holding that the issuing of a summons about ten months after the alleged offence was contrary to section 11 of the Summary Jurisdiction Act, 1848. Making a complaint or laying an information happens when the complaint is made to or the information is laid before a magistrate prior to the issue of the summons. There is no evidence on the record to show when the complaint was made or the information laid.

In the result the appeal succeeds. The decision of learned trial magistrate is set aside. I order that the charge be heard by another magistrate.