

W. Podi Singho v. The Queen, S. C. 21, 1966-D. C. (Grim.) Matale, 1/B2, (2/SC), Decided on 11/07/1966.

Bribery Act, as amended by Act No. 40 of 1958-Offences falling within clauses (b) and (c) of section 19-Burden of proof-" Official act "- " Authorised by law or the terms of employment to receive ".

Abeyesundere, J., with Alles, J. agreeing.

The accused-appellant was charged on two counts one of which was having accepted, while being a public servant, Game Watcher in the Department of Wild Life, a gratification as an inducement or a reward for abstaining from performing an official act, prosecuting an individual for possessing wild boar flesh and the other being acceptance of a gratification from the aforesaid individual which he was not authorised by law or the terms of his employment to receive.

Held;

Acceptance of a gratification by a public servant as an inducement or a reward for abstaining from performing an act which is not an offence known to law is not a contravention of section 19 (b) of the Bribery Act. It cannot be said for the purpose of section 19 (c) of the Bribery Act, amended by Act No. 40 of 1958 that a public servant engaged in any employment in the public service is not authorised by law or the terms of such employment to receive any gratification unless there is in any law or the terms of such employment a prohibition of the acceptance of any gratification by a public servant engaged in such employment. Appellant was acquitted.

Appeal allowed.