BUDHU AND OR *ats.* POLICE.

[Appellate Jurisdiction (Higginson, Acting J.) August 3, 1945.]

Arms Ordinance (Cap. 196)—s. 4—unlawful possession of arms—s. 37—presumtion as to ownership—burden of proof—sentence.

Budhu and Suchit were brothers living in a small house which formed part of their mother's compound. In the course of execution of a search warrant (for stolen goods) a pistol and five rounds of ammunition were found wrapped in a sack, together with a sheath knife and a screw driver, the parcel being found amongst some bean plants in a garden close to the compound. There was evidence that as the search party approached the compound Suchit was seen to run from his house to the garden close to where the parcel was found and from there to go into the lavatory. Both Budhu and Suchit denied any connexion with or knowledge of the parcel and suggested that it must have been placed there by an enemy. Both were convicted and sentenced to nine months imprisonment with hard labour.

HELD.—Where there is no evidence to show that a person knows that arms found on his premises were there, his statement that he had no such knowledge is sufficient to discharge the burden of proof under the Arms Ordinance, s. 37.

APPEAL against conviction and sentence. The argument fully appears from the judgment.

A. I. N. Deoki for the appellant.

J. L. MacDuff for the respondent.

HIGGINSON (Acting J.).—There is no doubt on the evidence but that Suchit knew all about this pistol and had it in his possession. As to Budhu the pistol was equally found in his possession in that it was found on his premises. The only question is whether by denying knowledge of it he has done what is required under s. 37. Beyond the fact that this pistol was found in his garden and appears to have been taken from his house there is no evidence to show that Budhu either had actual possession of it or knew of its existence. He denies knowledge of it and that is in fact all he could do. As to the sentences I see no grounds for altering them. For such an offence they are by no means excessive. As regards Suchit the appeal is dismissed. As regards Budhu the appeal is allowed.