

1964

Present : Sirimane, J.

K. R. GNANASIVAM and another, Appellants, and A. C. H. MOHAMED (Food and Price Control Inspector), Respondent

*S. C. 879/880 — M. C. Kurunegala, 25160*

*Control of prices—Price Order—Certainty as to prescribed price—Description of article sold—Quantum of evidence—Control of Prices Act (Cap. 173), s. 4 (4).*

Where, by a Price Order published in the *Gazette*, the Assistant Controller of Prices of a provincial district (Kurunegala) fixed the maximum price of cummin seed in that district at a price two cents per pound above the price fixed for sale of cummin seed in Colombo—

*Held*, that there was no uncertainty about the price.

*Held further*, that, in a prosecution for sale of an article in excess of the prescribed price, it is not necessary to call expert evidence concerning the description of the article if there is other sufficient evidence.

**A**PPPEALS from a judgment of the Magistrate's Court, Kurunegala.

*M. Tiruchelvam, Q.C.*, with *V. Kumaraswamy* and *N. Radhakrishnan*, for the accused-appellants.

*U. C. B. Ratnayake*, Crown Counsel, for the Attorney-General.

*Cur. adv. vult.*

December 21, 1964. SIRIMANE, J.—

The appellants were found guilty of selling 1/4th lb. cummin seed at a price in excess of the maximum retail price fixed by Price Order No. KU/34/63 published in the *Government Gazette Extraordinary* No. 13,562 dated 13th March, 1963.

Learned Counsel for the appellants raised two matters :

- (1) That there was uncertainty in regard to the price fixed by the Controller.
- (2) That it was not established that the commodity sold was cummin seed.

In regard to (1), by the Price Order referred to above the Assistant Controller of Prices of the Kurunegala District fixed the maximum retail price (in that district) at which cummin seed may be sold at a price two cents per pound above the price fixed for sale of cummin seed within the municipal limits of the town of Colombo. Price Orders relating to the prices in Colombo are published from time to time *inter*

*alia* by advertisements in the *Government Gazettes* as required by section 4 (4) of the Control of Prices Act (Chapter 173). In my view there is no uncertainty about the price, though a trader may be put to some inconvenience in ascertaining it. Those who choose to trade in these commodities must keep themselves informed of the various "controlled prices" however inconvenient that may be.

I am unable to agree with the submission that the Price Order is invalid because it did not mention a particular figure, or because it did not refer to a particular Price Order in Colombo.

In regard to the second point, there were 3 officers from the Food Control Department who gave evidence at the trial, that the appellants sold cummin seed. Their evidence on this point was not challenged nor was there any suggestion made that they may be mistaken. In fact the cummin seed had been packed and sealed with the thumb impressions of the appellants at the time of detection. The parcel was produced in Court at the trial and no suggestion was made that it contained anything other than cummin seed. Apparently the fact that the packet had not been opened at the trial had been commented on by the defence at the close of the case, and the learned Magistrate had then opened the packet himself and found that it contained cummin seed.

In my opinion it was unnecessary for the prosecution to call expert evidence in the circumstances of this case. The appeals are dismissed.

*Appeals dismissed.*

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