

Joseph Vs. State of Kerala

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Court : Kerala

Decided On : Jun-09-1967

Reported in : [1967]20STC261(Ker)

Judge : M.S. Menon, C.J. and; S. Velu Pillai, J.

Appeal No. : T.R.C. No. of 10 1966

Appellant : Joseph

Respondent : State of Kerala

Advocate for Def. : Government Pleader

Advocate for Pet/Ap. : V. Sivaraman Nair,; T.P. George and; E.A. Benny, Adv

Disposition : Petition dismissed

Judgement :

M.S. Menon, C.J.

1. It is common ground that the sole question for determination in this case is whether the 'prawn pulp' sold by the petitioner comes under the expression 'prawn' in Notification No. HI-17041/57/RD-1, dated 1st November, 1958. The notification appears on pages 3319 and 3320 of Part I of the Kerala Gazette dated 4th November, 1958.

2. An article entitled 'Prawns, Shrimps and Lobsters' in the Seafood Trade Journal for January 1967 deals with them as follows :

Prawns, shrimps and lobsters belong to the class of animals popularly known as 'Shell-fish'. Mussels, clams, oysters, chanks etc. are also shell-fish, but belong to an entirely different class known to zoologists as 'Mollusca' the former coming under the 'Crustacea'. With few exceptions they are aquatic (living in water). For convenience of study the Crustacea divided into several orders and the three groups forming the subject of this article come under the 'Decapoda' (having 10 legs) which also includes crabs and cray fish. All of them have their bodies made up of a number of segments or joints covered above and below by firm and sometimes hard shell plates and a head (cephalothorax in zoological language) in front covered over by a large shield or carapace usually showing no trace of joints. Most prawns in the adult condition are bottom dwelling forms, able to crawl or walk over the substratum with their legs borne on the lower side of the cephalothorax. They can also swim when required with the help of the thin leaflike limbs (pleopods or swimmerets) on the abdomen and take sudden leaps backwards by quickly bending the abdomen downwards.' (page 152).

The majority of prawns contributing to the valuable prawn fishery of the country-marine, estuarine and backwater-belong to the family Penaeidae. They abound in the seas around India in comparatively shallow water over the continental shelf (we have no clear knowledge of their occurrence and distribution in deeper waters) especially over soft and muddy bottom. Most of them are widely distributed in the Indo-Pacific region and support fisheries of varying magnitudes in countries around it. (page 152).

The prawn fishery of the west coast (including that of shrimps) is of far greater magnitude than that of the east coast. This is particularly true in regard to the landings from the sea. (page 154).

Another article in the same issue of the Seafood Trade Journal says:

For more than a hundred years, India has been exporting to neighbouring countries like Ceylon and Burma, fish and prawns cured by sun-drying-the chief

method of preservation known and practised in those days. With the adoption of modern methods of processing and preservation like canning and quick-freezing, a new chapter has opened in the history of the Indian seafood industry, about a decade ago.' (page 20).

One very significant aspect of the developments during the last few years was the rapid expansion in the exports of frozen and canned seafoods in contrast with the decline in the exports of traditional items, like dried fish and dried prawns.(page 21).

3. There is nothing on record to show that the 'prawn pulp' sold by the petitioner was anything else or other than prawns cured by sun-drying, the traditional method of preservation adopted on this coast. Prawns after drying are still prawns and should, therefore, come under the expression 'prawn' in Notification No. HI-17041/57/ RD-1, dated 1st November, 1958, as held by the Appellate Tribunal in the order challenged before us.

4. The petition fails and is hereby dismissed. No costs.