

In Re: Chittoori Potharaju

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Court : Chennai

Decided On : Nov-30-1944

Reported in : (1946)1MLJ457

Appellant : In Re: Chittoori Potharaju

Judgement :

ORDER

Happell, J.

1. The petitioner has been convicted of a contravention of the Hoarding and Profiteering Ordinance and has been sentenced to undergo rigorous imprisonment for one month and to pay a fine of Rs. 150 on the footing that the sale by the petitioner of his beedies at a price more than 20 per cent, above the price for which they were purchased amounted to offences under Sections 6(1) and 13(1) of the Ordinance. The prosecution case was that the petitioner had sold a bundle of one type of beedies at a price which was 41 per cent, more than the purchase price and another bundle of beedies at a price which was 25 per cent above the purchase price. The arithmetical calculations made by the lower Court are correct and although there is no evidence with regard to the cost of production the assumption that the whole-sale purchase price would, at any rate, not be below the cost of production is justified. I do not accept the contention advanced for the petitioner that he was entitled to deduct from the sale price overhead charges and so forth. 20 per cent. is a profit which is clearly intended to cover such charges,

nor do I accept the argument that he was entitled to deduct the tobacco-tax. Tobacco-tax is paid by the purchaser and so far as appears from the evidence the sale prices of Rs. 3 and Rs. 2-8-0 excluded the tobacco-tax. The last argument advanced that the criterion of unreasonable profit should not have been 20 per cent, above the cost of production but the profit allowed by the normal trade practice also has no substance. The prosecution was brought on the footing that the offences were committed because the sales gave a profit of more than 20 per cent, above the cost of production and if there was a normal trade practice of a profit greater than this, it should have been pleaded by the petitioner and he should have proved it. The convictions were therefore correct. This does not, however, seem to be a very gross case of profiteering and I think consequently that the ends of justice will be met if the sentence of imprisonment is reduced to the period already undergone while the sentence of fine is confirmed. In other respects the petition is dismissed.

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