

UKKU BANDA v. UKKU BANDA.

P. C., Kandy, 28,143.

1904.
June 7.

Ganja—Ordinance No. 5 of 1899, s. 16—Land planted with cannabis indica.

Ganja is the flowering or fruit-bearing tops of the female hemp plant.

Possession of the plant itself is not an offence under section 16 of the Ordinance No. 5 of 1899.

THE accused was charged with possessing *ganja* in breach of section 16 of Ordinance No. 5 of 1899.

It was proved that a land taken on lease by the accused was planted with *ganja*, plantain, coconut, and other trees; and that

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the accused was weeding the land at the time the complainant Arachchi went to inspect it.

The Police Magistrate, Mr. F. Bowes, found the accused guilty of possessing ganja and sentenced him to pay a fine of Rs. 30.

The accused appealed. The case was argued on 26th May, 1904.

Van Langenberg, for appellant.—In India, which is the home of *cannabis indica*, there are four forms of it, called bhang, charas, ganja, and majoon. Bhang consists of the dried leaf of the plant; charas is the resin exuded from the leaves and branches; ganja means the flowering tops; and majoon is sweet-meat made of this drug. Locally, ganja was defined in Ordinance No. 9 of 1897 to mean the dried flowering tops of cultivated female hemp plants which have become coated with resin in consequence of having been unable to set seeds freely, and includes any substance containing ganja. But that Ordinance was repealed by No. 5 of 1899, and the term "ganja" was not defined in it. In *Daindawd v. Pakeer* (1 *Browne*, 154), Bonser, C.J., held there must be special evidence that the substance found in the accused's possession came within the definition of Ordinance No. 9 of 1897. There is no proof here of what ganja is. In the "Standard Dictionary" and in "Ogilvie's Dictionary" the term "ganja" is defined specifically to be the dried hemp plant which has flowered and from which the resin has not been removed.

Ramanathan, S.-G., for respondent, cited the article on bhang in the *Encyclopædia Britannica* and the *Century Dictionary*.

Cur. adv. vult.

7th June, 1904. MONCREIFF, A.C.J.—

The appellant was fined under the provision (No. 5 of 1899. section 16) which relates to the possessing, or selling, or offering for sale, or suffering or permitting to be sold, any bhang or ganja, or any substance containing bhang or ganja. He has planted some specimens of *cannabis indica* and maintains that the provision relates only to ganja in its specific sense.

Under the word "ganja" in the *Century Dictionary* I find the following: The hemp plants of the north of India, specifically the dried plant which has flowered. In the *Standard Dictionary*, "ganja" or "janja" is said to be the hemp plant of India and Persia (*cannabis sativa*) dried with its flowers and gum. It is smoked in pipes for its narcotic effect. In the *Encyclopædia Britannica* under the word "bhang" I find "an East Indian name for the hemp plant *cannabis sativa*, but applied specially to the

leaves dried and prepared for use as a narcotic drug. In India the products of the plant for use as a narcotic and intoxicant are recognized under the three names and forms of bhang ganja or ganja, and churrus or charas. Ganja is the flowering or fruit-bearing tops of the female plants ”.

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I find also under the word “ hemp ” in the same publication that bhang is said to be & the Hindustani Siddhi or Sabzi, consisting of the dried leaves and small stalks of the hemp ”, and ganja is said to be “ the guaza of the London brokers, consisting of the flowering and fruiting heads of the female plant ”.

In Ordinance No. 4 of 1878 there is no mention of ganja; the Ordinance deals with opium and bhang. In Ordinance No. 9 of 1897, however, we find the words “ bhang or ganja ”. The addition was certainly not made with a view to including the plant, for the bhang plant and the ganja plant are the same—Indian hemp. Moreover, scientific definitions were given in section 2 of the words “ bhang or ganja ” for the purposes of the Ordinance, bhang being defined as the dry leaves of hemp plants, &c., and ganja as the dried flowering tops of the female plants, and as including any substance containing bhang or ganja. So the phrase “ bhang or ganja ” had no reference to the growing plant. The Ordinance of 1897 was replaced by No. 5 of 1899, which also contains the words “ bhang or ganja ”, without the addition of any words indicating an intention to include the plant. The words of section 7 of the Ordinance of 1897 were “ any person who shall possess or sell, or offer for sale, or suffer to be sold, any bhang or ganja shall be guilty of an offence ”.

They were practically the same as those of the Ordinance of 1899 now in force, but the definitions have gone. Section 2 has been sacrificed, as I should suppose it was found hopeless to expect scientific knowledge in sergeants of police sufficient to work it.

As tea and tobacco are used to denote the tea and tobacco plants, so ganja is used to denote the hemp plant of India. But in a provision of this description the words “ tea, tobacco, or ganja ”, would naturally be taken to refer only to the specific article, unless the context showed an intention, to include the plant. I do not find such an intention there. I therefore think that the conviction should be set aside.

