

1906.
September 26.

Present: Mr. Justice Middleton.

LIVERA *v.* SANDANAM CHETTY.

P.C., Avisawella, 15,768.

Postage stamps—Sale without license—Isolated sale—Ordinance No. 3 of 1890, s. 43—Ordinance No. 13 of 1892, s. 44—Ordinance No. 10 of 1899, s. 3.

A person who sells postage stamps without a license is guilty of an offence under section 43 of Ordinance No. 3 of 1890.

In order to bring such a person within the provisions of that section, it is not necessary to prove habitual selling or dealing in stamps; it is sufficient to prove an isolated act of sale.

THE facts and arguments sufficiently appear in the judgment.

Bawa (with him *A. Drieberg*), for the accused, appellant.

Walter Pereira, K.C., S-G., for the Crown.

Cur. adv. vult.

26th September, 1906. MIDDLETON J.—

In this case the accused had pleaded guilty of selling a postage stamp and a post card without a license.

It was objected that postage stamps and the stamp on post cards were not stamps denoting or purporting to denote any stamp duty, and therefore did not come under section 43 of Ordinance No. 3 of 1890, and the Proclamation of 28th June, 1896, published in the *Gazette* of 10th July, 1896, No. 5,417, Part I., was relied on as indicating this.

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It is not necessary for a Government stamp to bear the word "stamp duty" on it before it can be said to denote or purport to denote stamp duty. The fact that it bears on it its face value is sufficient to denote that the stamp is good for that amount of duty when purchased and affixed. This is clear also from section 3 of Ordinance No. 10 of 1899.

I think also that the same section which is substituted for section 44 of Ordinance No. 13 of 1892 has the effect of applying the prohibitions and penal terms of section 43 of Ordinance No. 3 of 1890 to the sale of postage stamps without a license.

The remarkable part of the application of section 44 of Ordinance No. 13 of 1892 to section 43 of Ordinance No. 3 of 1890 is that it would appear that the Postmaster-General and all Postmasters would require a license from the Commissioner of Stamps to sell postage stamps.

As section 43 makes the sale of any stamp..... without license punishable with fine, I feel unable to say that the offence contemplated is, as argued by counsel for the appellant, habitual selling or dealing in stamps.

I think that an isolated sale comes within the terms of the section, as argued by the Solicitor-General.

It would appear that postage stamps are sold by Postmasters under the provisions of section 42 of Ordinance No. 12 of 1892, and that under section 44 of Ordinance No. 13 of 1892, before it was amended by Ordinance No. 10 of 1899, any person was allowed to sell postage stamps under the authority of that Ordinance, but that proviso is omitted in the amending section 3 of Ordinance No. 10 of 1899.

I must therefore affirm the conviction on the ground that the appellant has in fact pleaded guilty to a legal offence.

