

1929.

Present : Drieberg J.

SAHIB v. MUDALIYAR.

150—P. C. Colombo, 46,858.

Trade Marks Ordinance—Meaning of word “registered”—Registration in another country—Ordinance No. 15 of 1925, s. 64 (1) and (2).

When a person uses in Ceylon the word “registered” in connection with a trade mark, which is not registered in terms of the Trade Marks Ordinance, No. 15 of 1925, he is guilty of an offence under Section 64 (1) of the Ordinance.

A PPEAL from a conviction by the Police Magistrate of Colombo.

Navaratnam, for accused, appellant.

Garvin, for complainant, respondent.

June 11, 1929. DRIEBERG J.—

The appellant appeals from a conviction under section 64 of the Trade Marks Ordinance, No. 15 of 1925. He sold sarongs on which was an oval and within it, from above downwards, the words “Kalyani-Madras-Regd.” He had previously applied for registration of this mark in Ceylon but his application was opposed and has not yet been decided. He claims that the mark is registered in India; there was no proof of this at the trial, but Mr. Navaratnam informed me that a certificate of registration by the Madras Chamber of Commerce had been since received. Even if this mark was registered in India it cannot affect the conviction.

It was contended for the appellant that the mark does not represent that it was registered in Ceylon, and that in connection with the word “Madras” above it, it could fairly be regarded as representing that it was registered in Madras.

Under section 64 (1) a person commits an offence if he represents a mark as registered which is not so registered, “registered” for the purposes of the Ordinance meaning that the mark is actually upon the register kept under the provisions of the Ordinance; by section 64 (2) a person is deemed to represent that a trade mark is so registered if he uses the word “registered” in connection with the trade mark. The words “Kalyani,” which I am told is a place in Madras, and “Madras” may be merely to show the place of manufacture and cannot be regarded as necessarily qualifying the word “registered.” It has been held that when goods are sold in England with the word “registered” on the label, the natural interpretation is that the registration was in England (*Wright Crossly v. Dobbin & Co.*¹).

The appeal is dismissed.

Appeal dismissed.

¹ (1897) 15 R. P. C. 21.