

Present : Bertram C.J.

1920.

## POLICE VIDANE v. KANTHAN.

599—P. C. Chavakachcheri, 9,965.

*Salt Ordinance, No. 6 of 1890, s. 16—Salt found in a house—Occupier guilty unless he gives satisfactory explanation.*

The occupier of a house in which salt is found in excess of the amount allowed is guilty of an offence under section 16 of Ordinance No 6 of 1890 if he is unable to account for the same satisfactorily. Actual and exclusive possession need not be proved nor presumed.

*Keerala v. Appuhamy*<sup>1</sup> doubted.

THE facts appear from the judgment.

*J. Joseph*, for the appellant.

*Brito Muttunayagam, C.C.*, for the Crown.

August 26, 1920. BERTRAM C.J.—

This is a case arising under the Salt Ordinance, No. 6 of 1890, and in particular under the provisions of section 16 of that Ordinance, which makes the occupier of any house in which shall be found any salt which he is unable satisfactorily to account for guilty of an offence. In this case the person charged is the actual householder. But it is pointed out that he was not the only occupant of the house. It is sought to pray in aid the decisions of this Court in which it has been held that where the Court is asked to draw a presumption from the possession of property against the person charged it must be shown that the possession was actual and exclusive. *Sethukavelu v. Kandiah*<sup>2</sup> and *Banda v. Haramanis*.<sup>3</sup>

Reference has also been made to a judgment of my own, *Keerala v. Appuhamy*,<sup>1</sup> in which I expressed the opinion that the doctrine of the necessity of exclusive possession ought not to be applied to the case of husband and wife. I should like to say that, if the particular point comes up again, I should like to reconsider my observations, as I am under the impression that there are English authorities to the contrary of what I said. This particular case must be decided, not upon the basis of that decision, nor upon decision given upon the words of other Ordinances, but upon the actual terms of this Ordinance. Here it is definitely said that the

<sup>1</sup> (1920) 7 C. W. R. 87.

<sup>2</sup> (1920) 7 C. W. R. 141.

<sup>3</sup> (1919) 21 N. L. R. 141.

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occupier is guilty of the offence if he cannot account for the presence of salt in the house. There is no question that the accused in this case was the occupier ; indeed, he was the occupier *par excellence*, being himself the householder. It is quite possible that other occupants may have been liable as occupiers, but that is not the question at issue. It seems to me that on the words of this Ordinance the principle referred to in the cases I have mentioned does not come under consideration, and I therefore uphold the conviction.

*Affirmed.*

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