

1969

Present: H. N. G. Fernando, C.J.

M. HARIKRISHNAN and another, Appellants, and H. WEERASINGHE
(O. I. C., Central Vice Squad, Fort), Respondent

S. C. 881-882/69—M. C. Colombo, 57346

Control of Prices—Sale of meat at a butcher's stall—Charge of contravention of price control order as a trader—Meaning of word "trader"—Butchers Ordinance.

When, in the context of a sale of meat at a butcher's stall, a person is charged with having committed a breach of price control order as a trader, the word "trader" must be given a meaning similar to the meaning of the same word in the Butchers Ordinance.

APPEAL from a judgment of the Magistrate's Court, Colombo.

S. C. Chandrahasan, for the accused-appellants.

Shibly Aziz, Crown Counsel, for the Attorney-General.

December 6, 1969. H. N. G. FERNANDO, C. J.—

I see no reason to interfere with the conviction and sentence of the 1st accused on the first count.

With regard to the second count the charge against these accused was that "being traders" they failed to exhibit a notice specifying the maximum price of mutton. There was no evidence however that either the 1st or the 2nd accused was a trader. In regard to the 1st accused the evidence was that he was a salesman and in regard to the 2nd accused the evidence was that he was the cashier. In the present context of the sale of meat at a butcher's stall, I think counsel for the appellant quite rightly relied on the references in the Butchers Ordinance to the *trade* of a butcher and to the licensing system applicable to that *trade*. When therefore a person is charged with having committed a breach of a price control order as a trader, that word must properly be given a meaning similar to the meaning of the same word when it occurs in the Butchers Ordinance. I would therefore acquit both the accused on the second count.

In regard to the charge against the 2nd accused on the first count of having sold mutton in excess of the control price, the evidence for the prosecution was that the 1st accused took a Rs. 5 note from the purchaser for one pound of meat and then handed the note to the 2nd accused

asking the latter to take Rs. 3.75. The 2nd accused then took the note and handed back Rs. 1.25 to the 1st accused who in turn gave that amount as change to the purchaser. Learned Crown Counsel very properly concedes that this evidence does not establish that the 2nd accused participated in the sale. The conviction and sentence of the 2nd accused on the first count as well is therefore set aside.

Appeal of 1st accused partly allowed.

Appeal of 2nd accused allowed.

