
1946

Present : Wijeyewardene J.

THE FOOD AND PRICE CONTROL INSPECTOR, PUTTALAM,
Appellant, and ABAYARATNE, Respondent.

811—M. C. Puttalam, 33,566.

Control of Prices—Sale of 17 ounces of bread—Maximum price chargeable at Puttalam—Order made under Control of Prices Ordinance, No. 39 of 1939, s. 3.

The Order made by the Controller of Prices (Food) and published in the *Government Gazette* No. 9,276 of June 2, 1944, controls the maximum prices at which not only a loaf but also a part of a loaf of bread of any weight could be sold.

A PPEAL against an acquittal from the Magistrate's Court, Puttalam.

H. H. Basnayake, K.C., Acting Attorney-General (with him A. C. M. Ameer, C.C.), for the Crown

No appearance for the accused, respondent.

Cur. adv. vult.

September 18, 1946. WIJYEWARDENE J.—

The accused was charged—

- (1) with having sold at a place in the Revenue District of Puttalam 17 ounces of bread for 30 cents, a price in excess of the maximum retail price for that quantity of bread as fixed by an Order made by the Controller of Prices (Food) and published in the *Government Gazette* No. 9,276 of June 2, 1944, and
- (2) with having failed to exhibit a notice setting out the maximum prices fixed by that Order.

The Police produced the accused before the Magistrate who, thereupon, charged the accused from the plaint filed by the Food and Price Control Inspector. Presumably, the Magistrate acted under the proviso to section 187 (3) of the Criminal Procedure Code. That provision, however, would not be applicable as the offences with which the accused was charged were punishable with more than three months' rigorous imprisonment or a fine of fifty rupees.

Without recording any evidence the Magistrate acquitted the accused, upholding the contention of the accused's Proctor that the Order did not control the price of a quantity of bread weighing 17 ounces.

The relevant provisions of the Order referred to in the charge are as follows :—

Clause (ii.) " The prices specified in columns 2 and 3 of the Schedule hereto (are) the maximum prices above which bread shall not be sold in 16 oz. loaves and 8 oz. loaves respectively within the area specified in the corresponding entry in column 1 of the Schedule hereto ".

Clause (iii.) " Any loaf weighing more than 8 oz., or any part more than 8 oz. in weight of any loaf, shall not be sold in any area at a price higher than the price calculated proportionately by weight from the maximum price per 16 oz. loaf fixed by this Order for that area ".

Clause (iv.) " Any loaf weighing not more than 8 oz., or any part not more than 8 oz. in weight of any loaf, shall not be sold in any area at a price higher than the price calculated proportionately by weight from the maximum price per 8 oz. loaf fixed by this Order for that area ".

The Schedule fixed, for the Revenue District of Puttalam, 24 cents as "the maximum price per 16 oz. loaf" and 12½ cents as "the maximum price per 8 oz. loaf".

These provisions show that the present Order controls the maximum prices at which a loaf or a part of a loaf of bread of any weight could be sold and that columns 2 and 3 of the Schedule have to be considered in finding the maximum price of a particular quantity of bread. The maximum retail price of such a quantity of bread cannot, of course, be ascertained in the absence of any evidence as to the individual weights

of the various loaves or parts of loaves which together make that quantity. This is further made clear by the fact that column (vii.) of the Order requires the receipt given to a purchaser to set out not only the "quantity of the bread sold" but also "a description of the loaves sold".

I set aside the order of acquittal and send the case back for trial on a properly framed charge.

Acquittal set aside.

