

1945

Present: Jayetileke J.

MUTTHU BANDA, Appellant, and WEERASEKERE, Respondent.

1,013—M. C. Kandy, 16,318.

*Defence (Miscellaneous) Regulations—Requisitioning of paddy—Accused not sole owner of the paddy requisitioned—Liability under Regulations 37 (1) and 52.*

The accused was charged with having failed to deliver 34 bushels of paddy as required by an order of requisition served on him under section 37 (1) of the Defence (Miscellaneous) Regulations.

The evidence showed that the accused and his three brothers were the owners of the fields which yielded the paddy and that the paddy was found in a barn in the *mulgedera* in which the accused and some others lived:—

*Held*, that, in the circumstances, it could not be said that the paddy was in the possession or control of the accused.

**A** PPEAL against a conviction by the Magistrate of Kandy.

N. E. Weerasooria, K.C. (with him E. B. Wikramanayake), for the accused, appellant.

T. K. Curtis, C.C., for the Crown.

*Cur. adv. vult.*

December 11, 1945. JAYETILEKE J.—

In this case the accused was charged with having failed to deliver 34 bushels of rice as required by an order of requisition issued by the Assistant Government Agent of Kandy. He was convicted and sentenced to pay a fine of Rs. 500. It was admitted by the prosecution that the accused was not the sole owner of the fields which yielded the paddy. The evidence showed that the accused and his three brothers were the owners of the fields. The paddy was found in a barn in the *mulgedera* in which the accused, his step-mother and some others lived. It cannot be said in these circumstances that the paddy was in the

possession or control of the accused. It is unfortunate that the accused has not entered up the return, R 2, correctly. Perhaps he did not study the form carefully before he filled it up. The conviction cannot, in my opinion, be sustained. I would accordingly set it aside and acquit the accused.

*Conviction set aside.*

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