

1946

*Present : Jayetileke J.*

WILSON, Appellant, and KOTALAWALA (EXCISE INSPECTOR), Respondent.

765—*M. C. Badulla, 12,071.*

*Ganja—Possession of hemp plant—Poisons, Opium and Dangerous Drugs Ordinance (Cap. 172), ss. 25 and 26.*

Ganja comes within the definition of the hemp plant the possession of which is prohibited by section 26 of the Poisons, Opium and Dangerous Drugs Ordinance.

**A** PPEAL from a conviction by the Magistrate of Badulla.

*G. T. Samarawickrame*, for accused, appellant.

*T. K. Curtis, C.C.*, for Attorney-General.

*Cur. adv. vult.*

January 21, 1946. JAYETILEKE J —

This is a prosecution under section 76 (5) (a) of the Poisons, Opium and Dangerous Drugs Ordinance (Chap. 172) for possessing seeds, leaves and stems of a hemp plant in contravention of section 26 of the Ordinance.

Section 25 of the Ordinance defines the expression "hemp plant" as follows :—

"Hemp plant means the plant known as *Cannabis Sativa* L."

The Excise Inspector who gave evidence in the case said that he found in a suitcase belonging to the accused parts of a hemp plant commonly known as ganja. The meaning of the word "ganja" was considered by Moncreiff A.C.J. in *Ukku Banda v. Ukku Banda*<sup>1</sup>. He said—

"Under the word ganja in the Century Dictionary I find the following: The Hemp plants of the North of India, specifically the dried plant which has flowered. In the Standard Dictionary ganja or janja is said to be the Hemp plant of India and Persia (*Cannabis Sativa*) dried with its flowers and gum. It is smoked in pipes for its narcotic effect. In the Encyclopaedia Britannica under the word bhang, I find an East Indian name for the Hemp plant *Cannabis Sativa*, but applied specially to the leaves dried and prepared for use as a narcotic drug. . . . In India the products of the plant for use as a narcotic and intoxicant are recognised under the three names and forms of bhang, ganja or gunja and churrus or charras . . . . Ganja is the flowering or fruitbearing tops of the female plants. I find also under the word hemp in the same publication that bhang is said to be the Hindustan Siddhi or Sabzi, consisting of the dried leaves and small stalks of the hemp and ganja is said to be the guaza of the London brokers, consisting of the flowering and fruiting heads of the female plant."

From these observations it seems fairly clear that the botanical name for the hemp plant is *Cannabis Sativa*. Mr. Samarawickrame contended that there are two varieties of the hemp plant, namely, *Cannabis Sativa* and *Cannabis Indica*.

He referred to section 25 of Ordinance No. 17 of 1929 in which the expression hemp plant was defined thus—

"Hemp plant means the plant known as *Cannabis Sativa* or *Cannabis Indica*".

That section was amended by section 6 of Ordinance No. 43 of 1925 by the deletion of the words "or *Cannabis Indica*". According to the Oxford Dictionary ganja is a preparation of Indian Hemp (*Cannabis Sativa* variety *Indica*). *Cannabis Indica* is a species of *Cannabis Sativa*, and that, presumably, is the reason why the section was amended. In my view ganja comes within the definition of hemp plant in the Ordinance. I would, accordingly, dismiss the appeal.

*Appeal dismissed.*