

1954

Present : Sansoni J.

J. SAPI NONA, Appellant, *and* INSPECTOR OF
POLICE, HORANA, Respondent

S. C. 287—M. C. Horana, 16,016

Poisons, Opium and Dangerous Drugs Ordinance (Cap. 172)—Section 32—"Raw or prepared opium".

In a prosecution for possessing raw or prepared opium in breach of section 32 of the Poisons, Opium and Dangerous Drugs Ordinance it is sufficient for the complainant to establish that the accused had opium in his possession; he need not give further particulars as to the species of opium.

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

R. A. Kannangara, with Eardley Perera, for the accused appellant.

E. H. C. Jayetileke, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

October 5, 1954. SANSONI J.—

The accused appellant was convicted upon a charge of possessing raw or prepared opium in breach of section 32, (Cap. 172). The point argued by her Counsel in appeal is that the only evidence regarding the substance found in her possession is to the effect that it was opium, without any further particulars as to what form the opium took and without any mention as to whether it was raw or prepared. This question has been raised

before in two cases, viz. *De Neise v. Sambunathan* ¹ and *Excise Inspector of Nallandiya v. Somasunderam* ² decided in 1937. In both those cases the substance in question was merely described by the Government Analyst and the Excise Inspector as "opium" without any further details as to what particular species of opium it was. Both Abrahams C. J. and Soertsz J. examined the provisions of the Poisons, Opium and Dangerous Drugs Ordinance; they considered that the intention of the legislature was to prohibit the possession of opium of any kind and for this reason they held in those cases that it was sufficient for the prosecution to establish that the accused had opium in his possession.

I have been asked to reconsider the question in view of the wording of section 32 which mentions only raw or prepared opium. I have considered the matter carefully and I would follow the opinions of those two learned judges.

The appeal is dismissed.

Appeal dismissed.

¹ (1937) 9 C. L. W. 116.

² (1937) 9 C. L. W. 130.