

1946

Present : Soeritsz, S.P.J.

GNANANDA THERO, Appellant, and VILLAGE HEADMAN
OF MADAKOTUWA, Respondent.

32—*M. C. Gampaha, 29,501.*

*Requisitioning order—Competent authority—His power to delegate authority—
Defence (Miscellaneous) Regulation 37 (1).*

The responsibility entrusted to the competent authority under regulation 37 (1) of the Defence (Miscellaneous) Regulations cannot be delegated by him to a subordinate officer.

A PPEAL from a conviction from the Magistrate's Court, Gampaha. The accused was charged with having failed to deliver to the headman paddy requisitioned by the Assistant Government Agent, in contravention of an order of requisitioning made under regulation 37 (1) of the Defence (Miscellaneous) Regulations. It transpired in evidence that the competent authority (the Assistant Government Agent) had issued a blank Requisition Form, signed by him, to a subordinate officer and that the particulars in the Form were subsequently filled in by the subordinate officer.

L. A. Rajapakse, K.C. (with him *M. M. K. Subramaniam*), for the accused, appellant.

J. G. T. Weeraratne, C.C., for the Attorney-General.

Cur. adv. vult.

March 29, 1946. SOERTSZ S.P.J.—

I do not think that this conviction can stand. It was quite irregular for the competent authority to have issued P1 in blank to Perera and so have left it to him to fill in the quantity liable to be requisitioned. That is a responsibility entrusted to the competent authority and not the sort of responsibility that could be delegated by him to a subordinate. It is admitted that, in this instance, the figures were written by Perera. On the facts too I prefer the version of the appellant.

I set aside the conviction and acquit the appellant.

Appeal allowed.
