

(1959) 04 BOM CK 0002

In the Bombay High Court

Case No : Criminal Appeal No's. 1225 and 1226 to 1228 of 1958

State

APPELLANT

Vs

Dhanraj Mills Ltd.

RESPONDENT

Date of Decision : 23-04-1959

Acts Referred:

Constitution of India, 1950 — Article 19(1), 20(2)
Essential Supplies (Temporary Powers) Act, 1946 — Section 3, 9
General Clauses Act, 1897 — Section 6

Citation : AIR 1960 Bom 453 : (1959) 61 BOMLR 1291 : (1960) CriLJ 1321 :
(1960) NLJ 14

Hon'ble Judges : Shah, J;Patel, J

Bench : Division Bench

Advocate : Y.V. Chandrachud, Govt. Pleader, for the Appellant; H.M. Choksi and Shellim Samuel for Respondent No. 3 and Shellim Samuel, for the Respondent

Judgement

Shah, J.—These are four companion appeals which raise for determination common question common questions. We propose to deal with appeal No. 1225 of 1958, and the reasons set out for the decisions in this Appeal will govern the other three appeals.

2. Before the Presidency Magistrate, 25th Court, Mazgaon, Bombay, the Dhanraj Mills Ltd., which will hereafter be referred to as the Company and its three officers were charged with contravention of Clause (3) (c) of the Cotton Textiles (Control) Order, 1948, read with Government Notification No. SRO-509, dated 27th April 1951, and hereby committing offences punishable under sections 7 and 8 of the Essential Supplies (Temporary Powers) Act (24 of 1946). During the pendency of the proceedings the fourth accused, Meherji M. Pastakia, who was the manager of the company died on 21st March 1958 and his name was struck off. The learned Magistrate acquitted the remaining three accused, and against the order of acquittal, this appeal has been preferred.

3. Dhanraj Mills Limited is a public limited Company, which has its textile factory

in the town of Bombay. In the year 1949-50, in the factory of the Company were installed a Spinning and a Weaving Plant. there were 780 looms and approximately 36,000 spindles - including ring, mule and bump mule, installed in the factory. From the returns submitted by the company, it appears that in the factory there were on 1st January 1950, 35476 spindles, mule, ring roving, doubling and other types. On 1st January 1950, there were 36316 spindles, and on 1st January 1951, the total number of spindles also remained at 36316. Some of the mule spindles were old, and it was represented by the company to the Textile commissioner in the returns made from time to time that a certain number of mule and bump mule spindles had remained idle in the year 1951. These bump mule, and mule spindles were permitted by the Textile Commissioner to be dismantled in the year 1953. The mule and bump mule spindles were primarily used for manufacturing yarn of low count and constituted about 5 per cent of the total number of spindles installed in the factory. In the year 1949-50, all the yarn manufactured on the mule spindles was packed for disposal, and the yarn manufactured on the other spindles was utilised by the Company for its own weaving plant. In the year 1949 and 1950, the Company manufactured an aggregate of 653 bales of low count yarn and that yarn was packed and sold. For use in the factory however, 93 bales of higher count yarn were purchased in the year 1949, and 8 bales of yarn were purchased in 1950. In and after the year 1951, the mule and the bump mule spindles were kept idle and there was no production of low count yarn. The yarn produced by the other spindles in the factory was utilised for weaving cotton fabrics. The higher count yarn produced by the spindles was insufficient for the requirement of the factory for weaving cloth, and from time to time applications were submitted requesting the Textile Commissioner, to release yarn for consumption in the mill, but on account of the prevailing shortages, the applications were turned down.

4. After the Defence of India Act 1939 lapsed, the Central Legislature passed the essential Supplies (Temporary Powers) Act, 1946, to provide for the continuance of power to control production, supply and distribution of, and trade and commerce in, certain commodities including cotton textiles. By section 3 of that Act, power to issue orders to control production, supply, distribution etc. of essential commodities was conferred upon the Central Government, and by section 7, contravention of orders made u/s 3 relating to cotton textiles was made punishable with imprisonment for a term which may extend to three years and also fine. By section 8, attempts to contravene or abetment of the contravention of the orders, made u/s 3 of the Essential supplies (Temporary Powers) Act, 1946, the Central Government issued the Cotton Textiles (Control) Order, 1948, which was brought into force on 2nd August 1948. By clause 3 (aa), "yarn" was defined as meaning any type of yarn manufactured either wholly from cotton or partly from cotton and partly from any other material. The expression "manufacturer" was defined to include a producer or a processor, and the expressions "processor" and "processor, were defined as meaning a person engaged in the manufacture of cloth or yarn or both. By clause 12, which was

added by an amendment, it was provided that every producer who has a spinning plant shall sell, in each quarter, at least one-eighth of the total quantity of yarn sold by him in the years 1949 to 1950 taken together. By clause 21, provision was made for packing of cloth and yarn. By sub-clause (3) (c) of clause 21, it was provided that no producer having both a spinning and a weaving plant shall pack during any month a quantity of yarn less than 80 per cent of the average quantity of yarn packed by him per month during the two years 1949 and 1950 taken together. In the years 1949 and 1950, the company packed 693 bales of yarn i.e. an average of 27.2 bales per month. By clause 21(3), (c), the company was obliged to pack 21 bales of yarn, but it failed to comply with that obligation. The company also failed to carry out its obligation under clause 12 of the Cotton Textile (Control) Order, 1948, to tell the prescribed quantity of yarn manufactured by it. The company and its officers were then prosecuted in three complaints which were filed in the year 1954, for contravention of clause 12(1) of the Cotton Textiles (Control) Order, 1948, but they were acquitted of the charge. Thereafter, four complaints were filed against the company and its three officers, for contravention of clause 21 (3) (c) of the Cotton Textile (Control) Order. By these four complaints the four accused were charged with having committed default in the months of June 1951, and August, October and November 1952, in packing yarn as required by clause 21(3) (c). It was the case for prosecution that the company was a producer having spinning and weaving plants, and was statutorily obliged to pack every month 21 bales of yarn, being 80 per cent of the average quantity of yarn which was packed per month during the two years 1949 and 1950 taken together, and the Company having failed to do so, the Company had committed the offence punishable u/s 7 of the Essential supplies (Temporary Powers) Act, 1946. It was also submitted that by reason of the provision of Section 9 of that Act the directors, managers and the officers of the company were also responsible for the default committed by the company.

5. Before the trial Court it was contended that the order of acquittal passed in the prosecution for charges for contravention of clause 12, i.e. failure to sell the yarn was a bar to the maintainability of the complaints for contravention of clause 21(3) (c) : that yarn manufactured from cotton waste was not "yarn" within the meaning of clause 3(aa) of the cotton Textiles (Control) order; that the Order did not apply to manufacture, packing for sale and distribution of yarn prepared exclusively from Cotton waste, and that in any event the company having ceased to manufacture cotton waste yarn in the years 1951-52, no obligation to pack yarn was imposed upon the company by clause 21(3) (c), and by failing to pack yarn manufactured from cotton waste, the company had not committed any offence punishable under sections 7 and 8 of the Essential Supplies (Temporary Powers) Act, 1946. It was also urged by accused Nos. 2 and 3 that they had appointed the fourth accused as a manager, and the fourth accused alone was attending to the day to day business of the company including production of yarn, and accordingly for failure to pack yarn the fourth accused alone was responsible. The learned Presidency Magistrate held that the order of

acquittal passed in cases filed against the company and its officers for contravention of clause 12 did not bar the complaints against the accused for contravention of clause 21 (3) (c) of the Cotton Textiles (Control) Order. He also observed that the period for which the accused in the earlier cases were prosecuted, were different from the periods for which the accused are sought to be prosecuted in the present four cases. But in the view of the learned Magistrate, the expression "yarn" used in clause 3(aa) did not include "cotton waste yarn", and that, in any event, the company having ceased to manufacture cotton waste yarn since 1951, by failing to pack yarn, the accused did not violate clause 21 (3) (c). The learned Magistrate observed that the obligation imposed by clause 21(3) (c) of the Cotton Textile (Control) Order was to pack the same "type of yarn" which was being manufactured in the years 1940 and 1950, and if yarn of that type was no longer manufactured by the Company, in the succeeding years, there was no obligation upon the company to pack yarn of a different type. The learned Magistrate having acquitted the accused, the State of Bombay has appealed to this Court.

6. It has not been urged before us that the order of acquittal passed in the cases for contravention of clause 12 of the Cotton Textiles (Control) Order constituted a bar to the maintainability of the complaints against the accused. Evidently, in the previous cases the contravention was of a provision imposing a different obligation and in periods different from those to which the complaints in these four cases relate, and there can be no bar of *autrefois acquit* to the maintainability of these complaints. It is urged in support of the appeal, that the learned Magistrate was in error in holding that the expression "yarn" did not include "cotton waste yarn". It is also urged that the obligation to pack yarn imposed by clause 21(3) (c) is not to pack the yarn with the same count as was packed in the basic year 1949-50, but the obligation is to pack cotton yarn irrespective of the count, and if that obligation is not discharged, the producer thereby contravenes clause 21(3) (c). The expression "yarn" by clause 3 of the Cotton Textiles (Control) Order, 1948, is defined as meaning any type of yarn manufactured either wholly from cotton or partly from cotton and partly from any other material. The expression "yarn" in the Cotton Textiles (Control) Order, undoubtedly refers to cotton yarn and no other yarn. The argument that yarn may be manufactured from different materials, in construing the provisions of Cotton Textiles (Control) Order, has in our judgment no importance. Cotton waste is that residue of cotton which is, in the process of carding or spinning discarded because of its short or damaged staple. For preparing yarn of a specified count, cotton has to be of uniform staple. Cotton which is not of the requisite staple is separated in the process of carding. Where the staple of cotton is very short it is unfit for spinning into yarn which can be utilised for fabrics to be used for preparing clothes. Cotton waste or as it is some times called waste cotton is but cotton of short or damaged staple, unfit for being spun into yarn which may be used for fabrics for preparing clothes. It is conceded on behalf of the accused that yarn can be spun out of cotton waste; but from that yarn

fabrics which may be used for clothes may not be manufactured. In 1949 and 1950, a considerable quantity of waste cotton was utilised by the company for spinning yarn, but the yarn was of very low count, and was suitable only for preparing blankets, towels, furnishing fabrics, durries, carpets or ropes.

7. The trial Magistrate was persuaded to accept the view that the expression yarn used in clause 21(3) (c) did not include yarn manufactured from cotton waste. But if cotton waste be regarded as cotton of short or damaged staple, we fail to see anything in clause 3(aa) which support the view of the learned Magistrate, that yarn prepared from cotton waste is not yarn within the meaning of the Control Order. Yarn is, by the definition, that type of yarn which is manufactured either wholly from cotton or partly from cotton and partly from any other material, and if cotton waste be cotton, yarn spun from cotton waste is in our judgment yarn within the meaning of the Cotton Textile (Control) Order. By clause 21(3) (c), an obligation is imposed upon the producer having a spinning and a weaving plant, to pack during any month a quantity of yarn not less than 80 per cent of the average quantity of yarn packed by him during the two years 1949 and 1950 taken together. That the Company had packed, in the year 1949-50, 653 bales of yarn manufactured from cotton waste is not disputed and by clause 21(3) (c), the company was obliged to pack 21 bales of yarn per month. there is nothing in clause 21(3) (c), the company was obliged to pack 21 bales of yarn per month. there is nothing in clause 21(3) (c) which supports the view that the expression "yarn" used in that clause has a meaning different from the meaning which is ascribed thereto by the definition clause. It was urged by Mr. Choksi, who appears on behalf of the accused, that Legislature itself has deliberately made a distinction between cotton and cotton waste. Our attention was invited to clause 20C, which imposes a restriction against the producer having a spinning plant, undertaking to carry out the spinning of yarn out of cotton and cotton waste not owned by him. But the reference to cotton waste and cotton in clause 20C (b) does not support the argument that yarn spun from cotton waste was not yarn within the meaning of the definition clause; not does the circumstance that the marking regulations are expressly made inapplicable to yarn manufactured from cotton waste support that argument. By clause 21(c) (d), an obligation is imposed upon the producer having a spinning plant to pack a certain quantity of yarn. In sub-clause (vii) of clause 21, a table is set out which refers to groups and counts of yarn. Under group I are set out 1 to 6 counts both inclusive, and it is followed by the expressions (waste) and(single). Similarly Group II is also of 1 to 6 counts both inclusive of the range and description is set out as (waste) (folded). This table of classification of various counts indicates that the producer having a spinning plant is to carry out the obligation imposed by clause 21(3) (d) both in respect of yarn manufactured from cotton as well as cotton waste. By the explanation to clause (x), in item (v) it is prescribed that for the purpose of sub-clause (d), the following varieties of cloth namely, cotton waste blankets, durries, towels, and furnishing fabrics shall be excluded in determining any quantity of cloth referred

to in paragraph 9d). It is true that by the use of the expression "Cotton waste Blankets" is intended to limit the exclusion to blankets which are manufactured from cotton waste, but that is not enough to suggest that within the contemplation of the Order cotton wastes a commodity which is different from cotton.

8. The learned Presidency Magistrate was of the view that waste yarn is produced from waste which again is produced from cotton in the process of caring and spinning, and as Visnu Hule, Head Clerk of the company has stated that the waste yarn which was produced during the basic period was produced from 10% waste and no cotton was fixed in it, and shiveshwerkar, Assistant Textile Controller, was unable to say whether the waste yarn packed by the Company during the period was 100% waste, the yarn produced from cotton waste was a commodity different from the yarn produced from cotton. In our opinion, the yarn produced from cotton. In our opinion, the yarn produced "from 100% waste cotton" is still yarn produced from cotton. This type of yarn is undoubtedly of a very low count, unfit for use for weaving fabrics which may be used for wearing, but that is not a material distinction which justifies the view that within the definition contained in clause 3(aa) yarn which is manufactured out of waste cotton is not included. There was, it is true, at the relevant time to control on sale or purchase of cotton waste though there was control on the price of waste yarn, but on that account also we are unable to hold that the provision which imposes an obligation to pack a prescribed quantity of yarn does not apply to a manufacturer who in the basic period was manufacturing yarn from cotton waste as well as ordinary cotton; not are we able to agree with the view of the learned Magistrate that the obligation imposed by clause 21(3) (c) is to pack the same type of yarn which was manufactured in the basic period. The definition of the expression "yarn" does undoubtedly refer to the "type of yarn"; but that is evidently enacted to make all yarn which has a cotton component subject, unless otherwise expressly provided, to the restrictive provisions of the order. There is however nothing in clause 21(3) (c), which suggests that the obligation to pack yarn is restricted to the particular type of yarn which was being packed in the basic period. The learned Magistrate followed a rather unusual process of reasoning in substituting for the expression "yarn" as used in clause 21(3) (c), the expression "type of yarn" and then inferred that the Legislature intended that the same type of yarn should be packed by the producer as was packed by him in the basic period. He reinforced his conclusion by observing that, as 21(3)(c) imposed an obligation, and failure to comply with the same was penalised, the Courts must be astute to hold that the producer, who did not manufacture yarn of the same type as was manufactured in the basis period, could not be penalised. In our view, the entire process of reasoning of the learned Magistrate proceeds upon assumptions which are unwarranted. There is nothing in clause 21(3) (c) which supports the view that the obligation is to pack the same type of yarn which was manufactured in the basic period; not is there any warrant for the observation that the liability to pack is in respect of the same type of yarn

which was being manufactured in the basic period. The obligation imposed by clause 21(3) (c) is absolute in terms, and we do not see any reason to restrict the same in the manner suggested by the learned Magistrate. We are, therefore, unable to agree with the learned Magistrate that there was no infringement of the provision of clause 21(3) (c) by the company.

9. But, Mr. Choksi, who appears on behalf of the accused, contended that clause 21(3) (c) of the Cotton Textiles (Control) Order, 1948, was ultra vires the Legislature because it imposed an unreasonable restriction upon the right to hold and dispose of property, and upon the right to hold and dispose of property, and upon the right to carry on trade or business. By clause (f) of Article 19 of the Constitution, all citizens have the right to acquire, hold and dispose of property; and by clause 9g) they have, amongst other rights, the right to carry on any trade or business. But the fundamental rights guaranteed by Article 19(f) and (g) are made subject to any law imposing reasonable restrictions. During the Second World War, and thereafter, there was undoubtedly a severe shortage of cotton yarn and to secure an equitable distribution of this commodity in short supply, orders were issued under the Defence of India Rules, imposing control upon the manufacture, distribution and sale of yarn. After the Defence of India Act lapsed, by the Essential Supplies (Temporary Powers) Act, 1946, power was conferred by the Legislature upon the Central Government to issue orders in respect of certain essential commodities. The legislature has by S. 3 of the Essential Supplies (Temporary Power) Act, 1946, conferred authority on the Central Government to issue orders, and in pursuance of the authority, the Central Government has promulgated the Cotton Textiles (Control) Order. Mr. Choksi contends that the order in so far as it imposes an obligation to pack a prescribed quantity of yarn for sale is unreasonable, Counsel submits that by Article 19 of the Constitution, every citizen has a right to use his property for his own benefit and yarn being the property of the company, it could not be required to pack for disposal a certain quantity of yarn manufactured by it, when its production of yarn was insufficient for its own requirements in its Weaving Department. But the argument assumes that a law which imposes a restriction upon the fundamental rights guaranteed by clauses (f) and (g) of Article 19. is unreasonable if the restriction results in inconvenience to a citizen. It however, in the larger interest of the society, it is found necessary for making an equitable distribution of an essential commodity, to require a citizen that he shall part with the same or a part thereof, the provision imposing the obligation is not per se unreasonable. In ascertaining whether the impugned statute is unreasonable, no abstract tests can be laid down. Reasonableness or otherwise of the statute has to be adjudged in the light of the nature of the right infringed, the object of imposing the restriction, the extent and the gravity of the evil to be remedied, the degree of harm or inconvenience to the aggrieved citizen in the context of the benefit intended to be achieved for the benefit of the society and similar other considerations. Even serious inconvenience resulting to a citizen by the imposition of a restriction on the exercise of his fundamental rights cannot be

decisive of unreasonableness of a statute. If in the larger interest of the public, the individual rights of a citizen must be made subservient there-to, the circumstance that the consequences which Mr. Choksi says are likely to result in causing inconvenience to the Company if the Company is required to pack for sale a part of their production which is necessary to keep the factory running will not justify us in holding that the provision is unreasonable. The Constitution has not conferred upon the citizens an absolute fundamental right to hold and dispose of his property. The right is subject to the law imposing reasonable restrictions. The Constitution has sought to create a balance between the rights of the citizens individually and the rights of the citizens generally; and as, in our view, the restrictions imposed by clause 21(3) (c) are enacted in the interest of the public in an emergency arising out of the conditions prevailing as an aftermath of the world war for the equitable distribution of an essential commodity, by itself the restriction cannot be regarded as unreasonable. The statute does not prescribe the imposition of restrictions based on ad hoc decisions of an executive authority in exercise of discretion vested in him by law to permit or not to permit user by a citizen of his property where such a provision is made as for instance in licensing provisions, different considerations may arise. The Legislature having, however enacted a general provisions applicable to all producers, provided they have a spinning and weaving plant, requiring them to pack a certain quantity of yarn, which was related to the quantity packed in the basic period, we do not think that the ground of individual hardship can be pressed into service in considering the question of reasonableness of the provision. Mr. Choksi also urged that the assumption made in enacting clause 21(3) (c) that the number of spindles installed by the producer in the basic period and the periods subsequent thereto and the requirements for consumption by the producer continue to remain unaltered was unwarranted. He says that it is possible that a section of the spinning plant may go out of commission and the procedure may not have the same extent of the plant as in the basic period, and it would entail great hardship upon the producer to be called upon to pack a quantity of yarn based upon the quantity packed in the basic period when it is not even sufficient for his own requirement. But, this in our judgment, is the argument of inconvenience in another guise. A restriction imposed by a statute is not unreasonable because it entails some hardship or inconvenience to the citizen in the exercise of his fundamental rights. Nor can it be called unreasonable because the degree or extent of restriction is delimited by reference to a point of time or some period in the past. Mr. Choksi contended that where the entire spinning plant is destroyed or dismantled and no yarn is manufactured by the producer in the period after the basic period, though the producer had a substantial production in the basic period, the producer would, if literal effect be given to the obligation under clause 21(3) (c), be called upon to pack something which he does not produce. But the answer to that contention is that the producer by reason of the destruction of his spinning plant, ceases to be a producer governed by that provision, and there is in that eventuality no obligation imposed upon him to pack any yarn. It is true that cases may be

imagined where a considerable part of the spinning plant is out of order since the basic period, and the total production may even be less than 80% if the average quantity of yarn produced during the basic period. But by contemplating such exceptional cases we do not think that we would be justified in regarding the provision of clause 21(3) (c) as unreasonable and ultra vires.

9a. Mr. Choksi stated that after the mule spindles became idle, the reeling department and the bundling department were also stopped, and in the year 1951-52, the mills had not even machinery for reeling and bundling of yarn in the process of packing. But if the company closed the reeling and the bundling departments and on that account it experienced difficulty in packing yarn, we are unable to hold that on that account the statutory obligation requiring the company to pack the prescribed quantity of yarn disappeared.

10. Mr. Choksi further urged that in any event accused Nos. 2 and 3 had not personally infringed the obligation imposed by clause 21(3) (c) of the Cotton Textile (Control) Order, and they were not guilty of the offence u/s 7 of the Essential Supplies (Temporary Powers) Act, 1946. Counsel invited our attention to a circular Ex. Z/15 issued from the office of the Textile Controller. The producers were by that circular advised to nominate by a special resolution officers who would be responsible for and look after the affairs of the mills, and accordingly answerable for the contravention of the provisions of the Textile Control Order that may be committed in future. They were also informed that the adoption of this suggestion may enable government to take action against the particular officer or officers nominated by the Board of Directors, and in the absence of such an arrangement, it may become incumbent on the Government to prosecute every director, manager, secretary and other officers or agents of the mills and any plea that may be put forward that the Board of Directors were not directly responsible for the day to day running of the mills may not be accepted as the provision of the law was very clear and held everyone connected with the mills responsible for the contravention in the absence of a specific delegation of authority to an officer or officers. It is submitted relying upon this circular. that the fourth accused was, by a resolution of the Company, appointed a manager, and all authority for the manufacture and packing of yarn was conferred upon him. But this circular which is issued on the 16th June 1949 was cancelled by another circular, Ex. Z-16, issued on 31st August 1949. It was recited in that circular that it was never the intention of the government that the entire responsibility for the proper observance of Textile Control Order should be fixed on a minor functionary of the mills and that the Directors, managers and other responsible officers should be completely relieved of their obligation to exercise due care in that behalf. Whatever may be the view of the Textile Controller, the liability upon the directors, managers, secretary and the staff attending to the business of the company is imposed by Section 9 of the Essential Supplies (Temporary Powers) Act, 1946, and the interpretation which may have been put by the Textile Control Office upon Section 9 is entirely irrelevant. By that section it is expressly provided that if the person contravening

an order u/s 3 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proved that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention. In the present case, it is true that accused Nos. 2 and 3 had pleaded in the court below that the fourth accused alone was attending to the day to day production of the yarn. But our attention has not been invited even to a defence raised by accused Nos. 2 and 3 that the contravention took place without their knowledge or that they had exercised all due diligence to prevent such contravention; nor is there any evidence on the record which supports the contention that the contravention took place without their knowledge or that they had exercised all due diligence to prevent the contravention. A general resolution appointing the fourth accused to attend to the day to day administration and the working of the mills and the production of the yarn, does not justify the inference that the contravention took place without the knowledge of the accused or that they exercised diligence to prevent the contravention. The burden under S. 9 of the Essential supplies (Temporary Powers) Act lies heavily upon the accused Nos. 2 and 3 that the contravention took place without their knowledge, or that they exercised diligence to prevent the contravention and no evidence has been led to discharge that burden. In that view of the case, accused Nos. 2 and 3 must also be held guilty for contravention of clause 21(3) (c) of the Cotton Textiles (Control) Order by the mills.

11. Mr. Shellim Samuel, who appears on behalf of the Company has contended that the Essential Supplies (Temporary Powers) Act, 1946 ceased to be in operation from 26th January 1956, and the Act being a temporary Act, no prosecution could after that date be commenced against the accused for infringement of the provision of orders framed in exercise of the authority under that Act. It is true that when a temporary Act lapses, the infringement of the provisions of that temporary Act or orders passed thereunder will not, in the absence of any express provision to the contrary made, or prosecution started after the Act has lapsed, be liable to be punished. But the Legislature has u/s 1 (3) of the Essential supplies (Temporary Powers) Act, 1946, which was amended by Act 65 of 1952, expressly provided that the Act shall cease to have effect on the 26th of January 1955, except as respects things done or committed to be done before that date, and S. 6 of the General Clauses Act 1937, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act. Evidently, the Legislature has contemplated that in respect of things done or omitted to be done, section 6 of the General Clauses Act, 1897, shall apply, and it is not disputed that if Sec. 6 applies the prosecution of the accused could be commenced and continued and notwithstanding the repeal of the Essential Supplies (Temporary Powers) Act, 1946. The learned Government Pleader invited our attention to the Essential Commodities Act, 1955, which repealed the Essential Commodities Ordinance, 1955 (I of 1955) and other laws in force immediately before the commencement of the Act, in so far as such laws

controlled or authorised the control of the production, supply and distribution of, and trade and commerce in, any essential commodity, and also to the provisions of sub-section (2) of Section 16 thereof which continued in force any appointments made, licence or permit granted or direction issued under any such order and in force immediately before the commencement of the Act. It is unnecessary for us to consider whether by reason of the Essential Commodities Act, 1955, the penal provision of the Essential Supplies (Temporary Powers) Act, 1946, may be deemed to remain in operation, because, in our view, the Essential Supplies (Temporary Powers) Act itself contains a provision which continued the penal provision even after the Act lapsed on the 26th January 1955.

12. On the view taken by us, the order of acquittal passed by the Trial magistrate must be set aside. We therefore, convict the accused No. 1 for the offence u/s 7 of the Essential Supplies (Temporary Powers) Act, 1946, read with clause 21(3) (c) of the Cotton Textiles (Control) Order, 1948, read with Government Notification No. SRO. 609, dated 27th April 1951. We convict accused Nos. 2 and 3 for the same offence read with Sec. 9 of the Essential Supplies (Temporary Powers) Act, for contravention of the same provision. We sentence each of the accused to pay a fine of Rs. 1000/-. Fine to be paid within a fortnight. accused Nos. 2 and 3, in default of payment of fine, to suffer rigorous imprisonment for three months each.

13. In the companion appeals, for the reasons stated in the Judgment in the principal appeal, the same orders are passed.