

In Re: Ramachandra Chetty

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Court : Chennai

Decided On : Feb-25-1926

Reported in : AIR1926Mad763; (1926)50MLJ557

Appellant : In Re: Ramachandra Chetty

Judgement :

ORDER

Waller, J.

1. The question raised in this case is whether the prosecution is barred by limitation under Section 347 of the Madras District Municipalities Act. A notice was served on petitioner under Sections 146, 149 and 313 of the Act in June, 1924. On July 4th he put in a petition to the chairman asking him to inspect the latrine. In reply an endorsement was sent on August 11th, informing him that he would be prosecuted if he did not obey the notice in one week. At the same time the Chairman directed the Health Officer to report further. That Officer's report was unfavourable to petitioner. On 22nd October a fresh notice was sent to petitioner, which was served on November 6th. He failed to comply with it and a prosecution was launched. It was launched within 3 months after the second notice, but more than three months after the first. Mr Ethiraj contends that the offence was committed on the expiry of the first notice and that the prosecution is barred by limitation. His contention is supported by a decision of Srinivasa Aiyangar, J., which is reported in Rama-nujachariar v. Kailasam Aiyar : AIR1925 Mad1067 .

Jackson, J. in Cr. R.C. No. 164 of 1925, took a different view. The same point, was raised before Madhavan Nair, J., and myself in Cr R.C. No. 122 of 1925, but was not considered by us. We held that the prosecution was within time as the first notice had been kept in abeyance while the parties were negotiating. It is possible that, in this case also, petitioner's representation of July 4th might be regarded as an attempt at negotiation, but Mr. Adam does not press the point. The question, then, for consideration is whether there is anything in the Act that prohibits the issue of a second notice, when no action has, for some reason or other, been taken on the first. I can myself see nothing that does so. The offence consists in the failure to obey a requisition issued by the competent authority. If a particular requisition is not enforced, I can find nothing in the Act that prevents the chairman from issuing another. If a prosecution had been instituted on the first requisition and had failed or not been pressed, other considerations might come in, but that question does not arise here. I agree in the view taken by Jackson, J., that where, as here, no steps have been taken to enforce the first requisition, a Chairman is entitled to make a second and to institute a prosecution for failure to comply with it. The Criminal Revision Case is therefore dismissed.

Devadoss, J.

2. I agree.

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