

Public Prosecutor Vs. B. Nagamma

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Court : Chennai

Decided On : Jul-20-1949

Reported in : AIR1950Mad35

Judge : Panchapakesa Ayyar, J.

Acts : Madras Prevention of Adulteration Act, 1918 - Sections 3 and 18; [Madras Public Health Act, 1939](#) - Sections 16

Appeal No. : Criminal Appeal No. 608 of 1948

Appellant : Public Prosecutor

Respondent : B. Nagamma

Advocate for Def. : A. Bhujanga Rao, Adv.

Advocate for Pet/Ap. : Party in person

Judgement :

Panchapakesa Ayyar, J.

1. The respondent was the accused in C. C. No. 890 of 1947 on the file of the Stationary Sub-Magistrate, Jammalmadugu, a case under Section 5(1) (d), Madras Food Adulteration Act, for sale of milk adulterated with water to an extent of 57 per cent. The Sub-Magistrate convicted the respondent and fined her Rs.

150. The Sub-Divisional Magistrate, Jammalmadugu, on appeal, held that the prosecution had not been instituted by the 'local executive officer' but by the executive officer, Jammalmadugu Panchayat Board, and acquitted her. The Government have filed an appeal against the acquittal.

2. The learned Public Prosecutor urged that, under Section 16, Public Health Act, a District Health Officer must be deemed to be the local executive officer, and, under Section 3 of Madras Act III [3] of 1918 (the Madras Prevention of Adulteration Act), the District Health Officer, as local executive officer, can delegate his powers and duties under the Act (including his powers under Section 18) to such persona as might be prescribed, and had delegated his powers under Section 18 to the Executive Officer, Jammalmadugu Panchayat Board, who had initiated the prosecution. I agree. Govinda Menon J. has also, in his judgment dated 30th October 1947, in C. A. No. 341 of 1947, come to the very same conclusion, and has upset an acquittal, on identical facts. I set aside the acquittal of the respondent. There is no need to order a retrial as the facts are clear, and the milk was more than half water. But in view of the fact that the learned counsel appearing for Government have not raised the point before the Sub-Divisional Magistrate, and relied on the judgment of Govinda Menon J. (which was unfortunately not reported and so did not act as a deterrent to such pleas), I let the respondent off with a fine of five rupees, or five days simple imprisonment in default, while convicting her under Section 5 (1) (d) of the Act.