

In Re: Venkatasubbiah

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Court : Chennai

Decided On : Apr-18-1947

Reported in : AIR1948Mad63; (1947)2MLJ160

Appellant : In Re: Venkatasubbiah

Judgement :

Yahya Ali, J.

1. The petitioner was an Assistant Goods Clerk in the Chidambaram railway station. He is said to have received from P. W. 1 a sum of Rs. 15 as a reward for his having accepted and consigned some parcels. The defence was that that sum was received as a loan. That defence, being manifestly puerile, was rightly rejected by both the Courts below. P.W. 1 's version has been corroborated by his master and other witnesses. There can therefore be no doubt that the sum of Rs, 15 was received by the petitioner as an illegal gratification for doing an official act.

2. Two ingenious arguments are raised by Mr. N. Somasundaram for the petitioner. The first is that the phrase ' motive or reward ' in Section 161 of the Code of Criminal Procedure does not cover a case where the payment is made in respect of past favours. The term ' reward ' in the phrase is manifestly intended to apply to a past service. What is forbidden generally is receiving any gratification as motive to do or a reward for having done any such thing as is described in the definition. Any other construction would lead to an absurdity.' In that view the

payment would be a bribe when paid before the doing of an official act, but it would not be a bribe if paid after the official act has been done or official favour has been shown. It will be the easiest thing for a person in such a position to stipulate for the payment immediately after the doing of the official act or the showing of the official favour. Such a construction is not in keeping with either the language or the spirit of Section 161 of the Code of Criminal Procedure.

3. The second contention is that since the petitioner was on leave, he ceased to be a public servant and that consequently Section 161 was not applicable to him. Such leave counts as duty and so long as a person is on duty, he must be deemed to be a public servant.

4. I find no merit whatever in this petition and consequently I confirm the conviction.

5. With regard to the sentence there are no particularly aggravating features in this case ; and, in my opinion, a sentence of six months' rigorous imprisonment will meet the ends of justice. The sentence is reduced accordingly.