

In Re : Sappa Appalaswamy

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SooperKanoon Citation : sooperkanoon.com/780960

Court : Chennai

Decided On : Nov-24-1948

Reported in : 1952CriLJ995

Judge : Rajagopalan, J.

Appellant : In Re : Sappa Appalaswamy

Judgement :

Rajagopalan, J.

1. The petitioner, a dealer in charcoal in Rajahmundry was convicted of having transported without permits 150 bags of charcoal on two occasions to P.W. 1 at Bhimavaram in contravention of the notification issued by the Government under the powers vested in them by the Defence of India Rules. The offence was punishable under Section 7 of Act XXIV of 1946.

2. The evidence on record could leave one in no doubt on the question of fact, whether it was the appellant that consigned for transport these 150 bags of charcoal to be delivered to P.W. 1 at Bhimavaram, though the actual transport was to be by a public carrier, in a boat.

3. Virtually the only point raised in this petition by the learned advocate for the petitioner was that it was not the petitioner that actually 'transported' the charcoal from Rajahmundry to Bhimavaram and that the consignment for transport which

was all that was proved against the petitioner could not bring him within the scope of the prohibition issued in the notification and Section 7 of Act XXIV of 1946. The expression transport was not defined either in the notification or in the Defence of India Ruleror anywhere in Act XXIV of 1946. Though expressions in a penal statute have to be construed strictly, it should be clear from the terms of the notification that, what was intended was prohibition of movements of charcoal from one district to another without the requisite permits. The ban was not intended to be immersed only on the person who actually carried the charcoal Very often it would only be a public carrier that would be entrusted with the actual conveyance of goods from one place to another. I am unable to hold that a construction of the term 'transport' in the notification should exclude 'consignment for transport'. The petitioner who consigned the goods intending them to be taken from Rajahmundry to Bhimavaram did transport the goods within the meaning of the notification, though the physical act of carrying was clone in a boat propelled by the boatman.

4. On the evidence on record the petitioner was rightly convicted. The sentence is by no means excessive. The offence complained of was committed a number of months after the issue of the notification which should have been well within the knowledge of the petitioner as a regular dealer in charcoal,

5. The petition is dismissed.