

In Re: Mahammad Sultan

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Court : Chennai

Decided On : Feb-03-1954

Reported in : AIR1955Mad92; 1955CriLJ349

Judge : Balakrishna Ayyar, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 260; Madras Prohibition Act, 1937 - Sections 4(1)

Appeal No. : Criminal Revn. Case No. 111 of 1954 and Criminal Revn. Petn. No. 103 of 1954

Appellant : In Re: Mahammad Sultan

Advocate for Pet/Ap. : T.R.A. Ghani and ;S.S. Bhardwaj, Advs.

Disposition : Petition dismissed

Judgement :

ORDER

Balakrishna Ayyar, J.

1. The District Magistrate (Judicial) Vellore has convicted the petitioner under S. 4 (I)(j), Madras Prohibition Act, and sentenced him to pay a fine of Rs. 100.

2. The petitioner is the Manager of the Municipal Office, Ambur. It appears that he was visiting one Mrs. Ranjitham, a midwife in the service of the municipality. His visits to the house of the woman was resented by the neighbours. At about 7-45 p.m. on 28-7-1953 the petitioner went to the house of Mrs. Ranjitham and stayed there for over an hour. Presently a crowd gathered outside the house and this crowd took the accused, the midwife and F. W. 2 to the police station some time after 9-30 p.m. by which time the crowd had become about 2000 strong. The Sub-Inspector noticed that the petitioner had some injuries on his person. So he sent him to P. W. 1, the Municipal doctor for examination and certificate. In the first instance, the Sub-Inspector did not ask for a certificate from the doctor whether the petitioner had consumed liquor or not. The crowd complained about this. The Sub-Inspector therefore had no alternative but to send the accused for medical examination for a second time on the specific point whether he had consumed liquor P.W. 1, the doctor, then examined the petitioner and found the following symptoms (1) smell of liquor in the mouth, (2) pupils dilated, (3) eyes red and (4) pulse excited. Taking all these symptoms together, the doctor was of opinion that the accused had consumed liquor.

3. It is now argued for the petitioner that on the first occasion when the petitioner was sent to the doctor for examination, he applied some tincture iodine to some abrasions on his person and also to some slight injury upon his tongue and that the smell of the liquor which the doctor noticed on a second examination might be due to that reason. That argument overlooks the fact that nearly an hour had elapsed between the two visits and it is very unlikely that the smell of the alcohol in which the iodine was dissolved would have persisted in the mouth for about an hour. The explanation was offered that the fast pulse of the accused must have been due to his excitement and that the redness of his eyes also might be explained on the same hypothesis. It was suggested that the pupils might have become dilated owing to the emotion of anger. No doubt, each individual symptom might be ascribed to a separate cause. But the significant fact is that all the symptoms co-existed at the same time and their cumulative significance is extremely important. One particular symptom may be evidence of one disease. A second symptom may be evidence of another disease. But the co-existence of a number of symptoms are sufficient to identify the particular disease. In the present

case the doctor was clearly of opinion that taking all the symptoms into account it was clear that the accused had consumed liquor. That also was the conclusion of the learned Magistrate and it seems to me that it was right.

4. It was next argued that the petitioner is a Government servant and that in the case of a Government servant It was not very appropriate to try, him under the summary provisions of Criminal P. C. In support of this argument reference was made to the decision in -- 'D'Souza v. Sheregara', 942 MWN 95 (A) and .-- 'Robert John Bradley v. Emperor', AIR 1932 Lah 188 (B). In neither of these cases was it stated that the summary trial of a person otherwise lawful becomes Illegal, merely because he is a Government servant. It was merely observed that it was not very appropriate. That, of course, would depend upon the circumstances of each case.

. (5) The conviction of the petitioner was right and in accordance with law. The sentence does not justify interference. This petition is dismissed.

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