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In Re: Pulipati Venkiah

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SooperKanoon Citation : sooperkanoon.com/782786

Court : Chennai

Decided On : Aug-05-1924

Reported in : (1924)47MLJ662

Appellant : In Re: Pulipati Venkiah

Judgement :
ORDER

Jackson, J.

1. The petitioner has been sentenced to six months' rigorous imprisonment and a fine of Rs. 1oo for ' receiving a bribe of Rs. 20 from a villager on the understanding that he would get him some land on darkhast in his capacity as Karnam, an offence punishable under Section 161, Indian Penal Code (vide 'Charge').'

2. The villager (prosecution 1st witness) says that he gave the Karnam Rs. 20 as he promised that he would get Government land for him. He got the land but only half as much as he expected. The learned Sessions Judge takes the complaint to be that the Karnam was given the bribe in the hope that he would recommend the grant of land. He managed to convince the parties that the land was as good as got, and so the charge is proved that the Karnam promised to get the land for the villager.

3. It is difficult to say from all this exactly what the Karnam is supposed to have done. In a charge under Section 161, Indian Penal Code, it must be shown that

the accused took the bribe as a motive for doing an official act. But getting darkhasts is not the official act of a Karnam. He may have cheated the villager into thinking that he was the official who granted darkhasts; but that does not come out clearly from the evidence, and the Sessions Judge seems to be right in holding that only his recommendation was bought.

4. But even if the charge had run that in his capacity of Karnam he would recommend the darkhast, that still would not be an official act. He might have been charged perhaps with offering to influence the Tahsildar or some higher official, but it is not clear on the facts that he ever did so offer. Anyhow a charge that a Karnam took a bribe as a reward for doing the official act of granting darkhasts in the capacity of Karnam cannot stand, and this proposition is not controverted on be half of the Crown. It was not made clear to the petitioner what criminal offence he had committed and the conviction must be quashed. There is a nice distinction between what is criminal and what is departmentally reprehensible and this distinction must be carefully borne in mind. A public servant can only be punished under the Penal Code, when his act fulfils all the conditions of an offence as therein defined.

5. I allow this petition and reverse the sentence. The fine to be refunded. The petitioner's bail is released.

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