

**The Queen Vs. Revu Pothadu**

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**SooperKanoon Citation :** [sooperkanoon.com/783139](http://sooperkanoon.com/783139)

**Court :** Chennai

**Decided On :** Aug-05-1882

**Reported in :** (1882)ILR5Mad390

**Judge :** Muttusami Ayyar and ;Tarrant, JJ.

**Appellant :** The Queen

**Respondent :** Revu Pothadu

**Judgement :**

**Muttusami Ayyar and Tarrant, JJ.**

1. The accused have been convicted of theft under Section 379, Indian Penal Code, and sentenced to fines of various amounts, which have been paid. The act for which they were convicted consisted of catching fish in a creek at Lakshmipuram, the right to fish in which had been leased out by Government.

2. Following the Proceedings of this Court, dated the 23rd October 1878, we set aside the conviction and direct that the fines levied from the accused be refunded.

1 Punishment for theft.

[Section 379: Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

2 Proceedings of the High Court of Judicature at Madras, 23rd Oct., 1878, Nos. 1759, 7331:

In these cases a number of persons have been convicted of stealing fish from certain Government tanks. The right of capturing the fish in the particular tanks in question had been sold by Government at auction to persons other than the accused.

The tanks were, it is understood, the ordinary open irrigation tanks of Southern India, and the question is whether fish living in reservoirs of this kind are in possession in such a sense as to render their capture and removal from the reservoirs a theft. The High Court are of opinion that they are not. If any right (as the right of catching the fish) is violated by the removal of them, the remedy is a civil action.

In England, it is observed, it is only under special statutes that such an act is punishable. The conviction and sentences are accordingly hereby annulled. The fines levied from the accused must be refunded.

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