

In Re: Kalappa Mandaya Servai

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SooperKanoon Citation : sooperkanoon.com/784535

Court : Chennai

Decided On : Apr-20-1943

Reported in : (1943)2MLJ280

Appellant : In Re: Kalappa Mandaya Servai

Judgement :

ORDER

Kuppuswami Ayyar, J.

1. The petitioner was convicted by the Joint Magistrate of Negapatam, for having acquired more coins, especially small coins, than what was necessary for his trade under Rule 90(3) read with Rule 90(2)(d) of the Defence of India Rules. His house as well as his shop were searched. Coins of the value of only Rs. 46-3-4 (consisting of 3 one rupee, 8 half-rupee, 104 quarter rupee, 12 two anna, 97 one anna, 92 half anna, 169 quarter anna, and 25 one pie coins) were found in his shop. When his house was searched there were coins of the value of Rs. 547-7-3, consisting of 199 rupee, 230 half rupee, 868 quarter rupee, 2 two annas, 23 one anna, 799 quarter anna, and 438 one pie coins, etc. He was a maligai merchant, and both the Courts have found that he did not require change for more than about Rs. 100 at a time. It is urged for the petitioner that he was getting coins only during the course of his trade, that he was bound to receive them when tendered by his customers and therefore the getting of such coins could not be said to amount to acquiring of coins. I am not able to see how it could be said that a merchant like

the petitioner could not acquire coins by vending his articles. It is stated that the acquisition of these coins could not be said to have been effected by his own exertions as he was bound to receive the coins. It is not the acquiring of coins that is prohibited but the acquiring of coins beyond a particular limit. If the petitioner had been receiving from his customers more coins than what was reasonably required for his business and kept them without giving change to his customers or changing them into notes, then it is a case of his acquiring more coins than what he could under the law in force. ' It has been found by both the Courts that there were more coins in his possession than what was required for him in his daily business and all of them were acquired by him during the course of his trade. It is a pure question of fact and I see no reason to disagree with the findings of the two Courts.

2. It is next stated that the previous day was a holiday and therefore he was not able to send the coins to the bank. But there is no evidence to show that he was sending small coins to the bank. It is the duty of every person to see that he does not retain with him more change than what is necessary for his requirements and if he does so, he does it at his peril. The accused was therefore rightly convicted. I do not consider the sentence excessive; for, but for such convictions and sentences it would not have been possible for such small coins to have got circulated in the way in which they have now. The petition is accordingly dismissed.