

In Re: Karuppannan

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Court : Chennai

Decided On : Aug-18-1941

Reported in : (1941)2MLJ446

Appellant : In Re: Karuppannan

Judgement :

ORDER

Horwill, J.

1. This is a reference by the District Magistrate of Salem.

2. The accused was convicted under Section 6 of the Fisheries Act and sentenced to pay a fine of Rs. 30. The fine was not paid, and so the Magistrate sentenced him to three months simple imprisonment in default. The District Magistrate has referred this matter to this Court under Section 438, the District Magistrate being of opinion that it was not within the power of the Sub-Magistrate to sentence the accused to such a severe term in default.

3. Section 67 of the Indian Penal Code, says:

If the offence be punishable with fine only....the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees...

4. The explanation of the Sub-Magistrate was called for. He seemed to be of the opinion that the scale mentioned referred not to the actual fine imposed but to fines that were permissible under the section under which the accused was convicted. That cannot be correct; because Section 67 refers to fines imposed and not to fines which the Court might have imposed if it had so pleased.

5. The reference is, therefore, accepted and the sentence reduced from three months simple imprisonment to six weeks simple imprisonment.

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