

**In Re: Hariappa Patla**

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**SooperKanoon Citation :** [sooperkanoon.com/786151](http://sooperkanoon.com/786151)

**Court :** Chennai

**Decided On :** Mar-05-1942

**Reported in :** AIR1943Mad135; (1942)2MLJ555

**Appellant :** In Re: Hariappa Patla

**Judgement :**

ORDER

**Horwill, J.**

1. The petitioner has been convicted of two offences by the Bench Magistrates of Udipi, one for selling firewood without a license and the other for selling hay without a license. He was sentenced to pay a fine of eight, annas in the one case and four annas in the other. The petitioner seeks to have his conviction and sentence set aside in revision on the ground that it is no offence to sell firewood or hay without license.

2. Section 193 of the Local Boards Act makes punishable the selling or storing without license of articles mentioned in Schedule VII of the Act. Schedule VII of the Act does not however include either firewood or hay. In this respect it differs from Schedule V of the District Municipalities Act and Schedule VI of the City Municipalities Act. This was pointed out by me in Venkatachala Aiyar v. Emperor 1941 M.W.N. (Cri.) 100.

3. It is suggested by the learned Public Prosecutor that although firewood and hay are not specifically mentioned in Schedule VII they might be classed as combustibles and thereby fall under Clause (n) 'storing any explosive or combustible material'. 'Combustible' means something capable of or used for burning. Most things are combustible if sufficient heat is applied; but the association in Clause (n) of combustible materials with explosives suggests that the legislature did not intend to give the expression 'combustible material' a very wide meaning; but to confine it to things that burn spontaneously or with great readiness. This conclusion is confirmed by the fact that in the District Municipalities Act timber and hay are expressly provided for despite the fact that explosives and combustible materials are also mentioned under another heading.

4. The selling of firewood and hay without licenses are not therefore offences. The convictions are set aside and the fines are ordered to be refunded.

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