

Subramanya Vs. Somasundara

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Court : Chennai

Decided On : Oct-23-1891

Reported in : (1892)ILR15Mad127

Judge : Arthur J.H. Collins, Kt., C.J. and ;Handley, J.

Appellant : Subramanya

Respondent : Somasundara

Judgement :

1. This case has been so much complicated by the lower Courts having wandered into the consideration of many irrelevant matters that it is very difficult to understand what has been decided. From what we can make out of the confused judgments the karnam has been convicted for not producing certain accounts as he is required by Section 12 of Regulation XXIX of 1802 to do to the proprietor or farmer.
2. We think the lower Courts have rightly held that the accused is a public servant and that he was bound by law to produce the accounts in question to the proprietor or farmer.
3. But in our opinion the prosecution has failed to prove that the person complaining of the non-production of the accounts was the proprietor or farmer within the meaning of the Regulation. The complainant Subramanya Ayyar is said to be the peishcar of one Ramasami Ayyar, the agent of one Raman Chetti, the

undivided brother of Alagappa Chetti, the lessee, who is said to be absent in Singapore. It is impossible in a criminal case, where every thing must be strictly proved against the accused, to hold that the agent of the undivided brother of a lessee is the proprietor or farmer within the meaning of the Regulation. It is said that Alagappa Chetti subsequently recognized Raman Chetti's appointment of Ramasami Ayyar as his agent, but the only proof of this is a letter which is certainly not sufficient to constitute such an agency as is required to give Ramasami Ayyar all the powers of Alagappa Chetti under the Regulation.

4. Upon this ground we hold that the conviction is illegal.

5. We also agree with the District Magistrate that even if accused had been rightly convicted the sentence was under the circumstances far too severe, although we consider that a karnam who does persistently and wilfully refuse to produce accounts to the landowner should be severely punished.

6. The convictions of sentence are set aside, and the fine, if paid, must be refunded.

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