

In Re: M. Muniswami Goundar

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Court : Chennai

Decided On : Apr-18-1946

Reported in : AIR1947Mad430; (1947)1MLJ36

Appellant : In Re: M. Muniswami Goundar

Judgement :

Kuppuswami Ayyar, J.

1. The petitioner is the second accused in C.C. No. 28 of 1945, on the file of the Court of the Additional First Class Magistrate, Vellore. He was tried along with another who was the first accused. They were both members of a joint Hindu family, being cousins, and they were engaged in rice trade. The prosecution case was that they traded without a licence and therefore violated Clause 3 of the Food Grains Control Order, 1942, and sold rice in excess of 20 maunds in a single transaction. Their defence was that they were members of a joint Hindu family and the second accused was only helping in the trade and that they did not commit any offence. The first Court found both the accused guilty on the ground that the licence was issued only in the name of the first accused and not in the name of both. On appeal the learned Sessions Judge of North Arcot acquitted the first accused because there was a licence in his name and ordered a re-trial as against the second accused. But it must be remembered that this is a case in which the second accused was not trading himself. If he had traded in his own name and on his own behalf then he would be bound to take a licence. If he had been the

manager of the joint family and if as such manager he had to conduct the business on behalf of the family, then he would have taken the licence in his name for doing such business. In this case the first accused has taken a licence. The second accused even in his plea had stated that he was only helping the joint family as a member of the joint family. Consequently, it cannot be said that he was carrying on any business to necessitate his taking out a license. Clause 3 runs thus:

No person shall engage in any undertaking which involves the purchase, etc., or storage for sale, in wholesale quantities of any foodgrain except under and in accordance with a licence issued in that behalf by an officer authorised by the Government.

2. This is not a case of the second accused engaging himself in any such undertaking. He was only helping the family which was engaged in such an undertaking and the family has obtained the licence in the name of the first accused who was engaged in the business on behalf of the family. In these circumstances the learned Sessions Judge was not justified in ordering a re-trial against the second accused. The order of the Sessions Judge directing a re-trial is set aside and the second accused is acquitted.

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