

Public Prosecutor Vs. Murugesan

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Court : Chennai

Decided On : Oct-26-1951

Reported in : AIR1954Mad199; (1952)IMLJ168

Judge : Ramaswami, J.

Acts : Madras Prevention of Adulteration Act, 1981 - Sections 14(3)

Appeal No. : Criminal Appeal No. 479 of 1951

Appellant : Public Prosecutor

Respondent : Murugesan

Advocate for Pet/Ap. : Party in person

Disposition : Appeal dismissed

Judgement :

Ramaswami, J.

1. This is a criminal appeal filed by the learned Public Prosecutor against the acquittal of the accused under Section 14(1), Madras Prevention of Food Adulteration Act.

2. The short facts are; P. W. 1, Hari Rao, the Maistry under the Sanitary Inspector and P. W. 2 Ponnurangam, the Malaria Cooly, of a Panchayat Board, were

deputed by P. W. 3, the Sanitary Inspector on the morning of 12-1-1951 to get hold of persons who were carrying milk for sale and to inform P. W. 3 so that he might take sample of the milk for analysis to detect adulteration. P. W. 1 saw the accused with two chumbus of milk when he was going very near the hotel run by one Balakrishna Pillai near the bus stand at Tirukoilur. P. W. 1 sent word to P. W. 3 through P. W. 2. P. W. 1 too came there when the accused was very near the hotel of D. W. 1, Balakrishna Pillai. P. W. 3 asked the accused to give a sample of the milk for being sent for analysis. The accused did not give the sample of the milk and was going into the hotel. P. Ws. 1 and 3 followed him to the hotel. The accused handed over the milk chumbu to the servant of the hotel who poured them into the milk pan in which the milk was boiling. The accused when questioned stated that he would give the sample of milk later.

3. These facts were accepted by the learned Second Class Magistrate as having been fully established. He did not believe the defence version, which does not concern us here for the present. The learned Second Class Magistrate came to the conclusion that the facts set out above did not make out the preventing contemplated under Section 14 (3). His reasons were that in order to bring the offender under the section, some overt act on his part, which was calculated to prevent the local executive officer from taking the sample was necessary, and that mere words of refusal would not be sufficient to bring the act under that section. He was of the opinion that in this case the prosecution had not proved any overt act on the part of the accused by which the complainant was prevented from taking the sample.

4. There can be no doubt that the view taken by the learned Second Class Magistrate is hopelessly wrong. On the facts alleged there can be no doubt that this accused, in the manner set out above and which need not be repeated, has effectively prevented the local executive officer from taking the sample and for this (no?) further overt act is necessary than what has happened. In other words, the learned Second Class Magistrate seems to have thought that unless there was a physical clash and an effective disabling of the executive officer from taking the sample, no offence would be made out, I need not say that this is a very dangerous extension of the plain meaning of the word 'prevent', which would

certainly take in an act ascribed to the accused in this case.

5. But the further question which remains is whether I should interfere in appeal and call for the records and put the accused to the trouble of appearing before this Court and deal with the matter according to law.

6. The circumstances of the case are too trivial to merit such an elaborate procedure, and what is more, the learned Public Prosecutor was more bent upon having the legal position cleared up rather than upon prosecuting further this offender.

7. Therefore this criminal appeal is dismissed with these observations, which would prevent further mischievous interpretation of this nature in future.

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