In Re: S.V. Kishta Pillai

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SooperKanoon Citation : sooperkanoon.com/789947

Court : Chennai

Decided On : Nov-23-1949

Reported in : AIR1950Mad389

Judge : Panchapakesa Aiyar, J.

Acts : Madras General Sales Tax Act, 1939 - Sections 15; Madras General Sales Tax Act (Amendment), 1947; Code of Criminal Procedure (CrPC) , 1898 - Sections 403

Appeal No. : Criminal Revn. No. 1328 and Cri. Revn. Petn. No. 1258 of 1948

Appellant : In Re: S.V. Kishta Pillai

Advocate for Def. : N.T. Raghunathan for Public Prosecutor

Advocate for Pet/Ap. : M. Chockalingam, Adv.

Judgement :
ORDER

Panchapakesa Aiyar, J.

1. The petitioner here was already once convicted and fined for not paying the assessment fixed for 1946-47. I do not think that the lower Court was justified in law or in equity in convicting him over again for not having paid that very assessment in full. The learned Public Prosecutor cannot say why the principle of

'autrefois acquit' should not be applied here and the petitioner acquitted. This is not like a continuing trespass, a fresh offence every day. Though the old section (Section 15, Madras General Sales Tax Act of 1939) prescribed an added penalty of Rs. 50 a day, for continued breach, over the maximum fine of Rs. 1000 for a breach, even that section did not say that a new prosecution can be launched every day and that a fresh fine upto Rs. 1000 and a penalty of Rs. 50 per day for every day of non-payment after the due date can be imposed. The new section (as amended by Madras Act XXV [25] of 1947) does not contain that provision at all. So, I set aside the conviction and sentence of the petitioner, acquit him in this case, and direct the fine, if paid, to be refunded to him. The tax will, of course, be collected under the old conviction.