

**In Re: Narasimha Chettiar**

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**Court :** Chennai

**Decided On :** Sep-23-1943

**Reported in :** AIR1944Mad125; (1943)2MLJ500

**Appellant :** In Re: Narasimha Chettiar

**Judgement :**

ORDER

**Kuppuswami Ayyar, J.**

1. The petitioner was on his own plea of guilt convicted for an offence punishable under Rule 90(3) of the Defence of India Rules and sentenced to pay a fine of Rs. 100 with simple imprisonment for one month in default. He was found guilty of having hoarded small coins. The coins were seized from his house by the Sub-Inspector and they were directed to be confiscated. In view of the fact that the petitioner himself has pleaded guilty, I do not think I will be justified in interfering with the conviction. With regard to the sentence it is not excessive. As regards the order of confiscation it is stated that under Section 2, Sub-section (3), Clause (iii) of the Defence of India Act, rules made under Sub-section (1) may provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in the preceding clause has been committed and that consequently Section 517, Criminal Procedure Code, has no application to the facts of this case. I am not able to see any force in this contention. It is only an enabling section and from Rule 124 of the Defence of India

Rules it is seen that Provincial Governments have been empowered to order confiscation of 'properties that have been seized under a search warrant issued by a District Magistrate, etc. The decision in Ghulamali v. Emperor A.I.R. 1941 Bom. 412 has no application to the facts of this case. The accused in that case was not charged with an offence relating to the articles sought to be confiscated. Apart from the oral evidence there was the admission of the petitioner himself in this case that these coins which were seized at a search in his house were his and it is in respect of these coins he was found guilty of an offence punishable under Rule 90(3) of the Defence of India Rules. It is an offence to which Section 517, Criminal Procedure Code, applies and the magistrate was therefore Justified in ordering the confiscation of the property.

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