

In Re: A.S. Krishna and ors.

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Court : Chennai

Decided On : Jul-26-1954

Reported in : AIR1955Mad532

Judge : Rajamannar, C.J. and ;Somasundaram, J.

Acts : [Constitution of India](#) - Articles 132 and 134(1)

Appeal No. : Criminal Misc. Petn. Nos. 1010, 1012, 1014 and 1016 of 1954

Appellant : In Re: A.S. Krishna and ors.

Advocate for Def. : Public Prosecutor and ;M.A. Mandanna, Adv.

Advocate for Pet/Ap. : A.S. Sivakaminathan, ;S. Venkatakrisnan and ;M. Narayanamurti, Advs.

Disposition : Petition dismissed

Judgement :

Rajamannar, C.J.

1. These are applications for leave to appeal to the Supreme Court against the judgment of this Court on a reference made by the Third 'presidency Magistrate, Saidapet, Madras in a batch of four cases before him relating to offences under the Madras Prohibition Act. Several questions were raised in the reference, but this court confined itself to such questions as may be said to reasonably arise in

the said cases. This was due to the fact that the reference was made, before any evidence had been taken. Certain sections of the Madras Prohibition Act were impugned as being invalid on one ground or the other, and this court decided that none of the provisions so impugned was void.

2. These applications are under Article 132(1) and Article 134(l)(c) of the Constitution. Learned Counsel for the applicants relied on the Explanation to Article 132, and the observations of the Supreme Court in -- 'Election Commission, India v. Venkata Rao', : [1953]4SCR1144 (A), and contended that our order would fall within the wide scope of the Explanation. In our opinion, wide as the Explanation is, it would not cover an order on a reference like the one answered by this Court. We did not decide any issue, which, if decided in favour of the applicants, would be sufficient for the final disposal of the case. The two main questions with which we dealt related (1) to a section raising a presumption (Section 4) and (2) to the issue of a search warrant, and search and seizure following it. It' cannot be said that if we had decided these two questions, in favour of the petitioners, the cases would have ended in their favour. We, therefore, hold that the petitioners are not entitled to leave under Article 132(1).

3. Article 134(l)(c) does not apply to this case, because that article lays down that an appeal lies to the Supreme Court from any judgment, final 'order, or sentence in a criminal proceeding of a High Court. There has been no such judgment, final order, or sentence. The petitioners are not entitled to obtain leave under Article 134 either.

4. The petitions are, therefore, dismissed.

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