

In Re: Narayanaswami Mudali

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SooperKanoon Citation : sooperkanoon.com/793331

Court : Chennai

Decided On : Nov-28-1946

Reported in : (1947)1MLJ364

Appellant : In Re: Narayanaswami Mudali

Judgement :

ORDER

Yahya Ali, J.

1. The petitioner has been convicted of an offence under Section 81(4) of the Defence of India Rules for violating Clause 12 of the Kerosene Control Order, 1942, which prescribes that no person shall carry on business as a retail dealer unless he has been registered as such under the Kerosene Control Order by the Collector having jurisdiction over the place where the retail dealer carries on business. A dealer has been defined in the Control Order itself as a person dealing in the purchase, sale or distribution of kerosene. In the present case the only evidence is that the petitioner conducted a solitary transaction of sale of one tin of kerosene but that does not constitute him a retailer nor does it constitute the transaction a business to amount to his carrying on business as retail dealer within the meaning of Clause 12. Carrying on a business always connotes conducting of more transactions than one by way of trade or commerce and the concept of dealer also has in it implicit the notion that he carries on transactions of purchase, sale or distribution as a business and both these expressions exclude the idea of a

solitary transaction of purchase or sale constituting either a business or constituting the person making the sale a retail dealer. The petition is allowed and the conviction is set aside and the fine if paid will be refunded.

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