

In Re: Public Prosecutor

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Court : Chennai

Decided On : Sep-06-1950

Reported in : AIR1951Mad716

Judge : Somasundaram, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 403 and 403(2);
Madras Prohibition Act, 1937 - Sections 4(1) and 4A

Appeal No. : Cri. Appeal No. 623 of 1950

Appellant : In Re: Public Prosecutor

Advocate for Pet/Ap. : Party-in-person

Disposition : Appeal dismissed

Judgement :

ORDER

Somasundaram, J.

FACTS

In a search made by the Prohibition Sub-Inspector of the house of the accused, be found arrack as well as articles used for distillation & also found the accused in a state of intoxication. The police prosecuted the accused for an offence under

Section 4-A, Prohibition Act, & had him convicted. The police again filed a charge-sheet against the accused for offences under Section 4(1)(a) & (g) of the same Act & he was acquitted on the ground that Section 403, Cr.P.C. was bar to a second prosecution on same facts. The State filed the appeal against the acquittal.

1. Section 403, Cr. P. C. will not apply as under Section 403, Clause (2) the accused may be tried for a distinct offence for which a distinct charge might have been made against him in the former trial. The lower Ct. was wrong in holding that Section 403, Cr. P. C. is a bar to the present trial. However as the accused has already been convicted of the offence under Section 4-A, Madras Prohibition Act, it is unnecessary to prosecute him again under Section 4 (1) (a), Madras Prohibition Act. The ends of justice do not require the subsequent prosecution. The appeal is accordingly dismissed.

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