

In Re: Srinivasan and anr.

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Court : Chennai

Decided On : Oct-03-1969

Reported in : AIR1970Mad512; 1970CriLJ1592

Judge : K.N. Mudaliyar, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 510

Appeal No. : Criminal Revn. Case No. 407 of 1968 and Crl. Revn. Petn. No. 401 of 1968

Appellant : In Re: Srinivasan and anr.

Advocate for Pet/Ap. : Fyzee Mahmood, Adv.;K.R. Natarajan, Adv. for ;Public Prosecutor

Disposition : Petition allowed

Judgement :

ORDER

K.N. Mudaliyar, J.

1. Mr. Fyzee Mahmood, appearing for accused 1 and 3 in this revision petition argues that the contraband in this case, namely. M. Os. Nos. 1 to 7 contained brandy is not proved in the court of the trial Magistrate, although the appellate Court has acted upon the report of analysis by the Assistant Director and Assistant

Chemical Examiner to Government for Excise and Prohibition. The appellate Court has erred in acting on this document without giving opportunity to the accused to cross-examine the concerned witness on the relevant report. The appellate court proceeded on the footing that M Os. 1 to 7 contained brandy, a prohibited liquor. This has got to be proved by the author of the analysis report by giving evidence and marking the said document. This infirmity alone vitiates the conviction of the petitioners. I set aside the conviction of the petitioners and the sentences imposed on them and direct retrial of the case. It is open to the petitioners at the conclusion of their retrial to raise their contentions both on facts and law for their acquittal.

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