

**In Re: Shanmugam**

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**SooperKanoon Citation :** [sooperkanoon.com/796155](http://sooperkanoon.com/796155)

**Court :** Chennai

**Decided On :** Mar-13-1952

**Reported in :** AIR1954Mad376; (1952)IIMLJ579

**Judge :** Somasundaram, J.

**Acts :** Madras Prohibition Act, 1937 - Sections 4A

**Appeal No. :** Criminal Revn. Case No. 909 and Cri. Revn. Petn. No. 894 of 1951

**Appellant :** In Re: Shanmugam

**Advocate for Def. :** Asst. Public Prosecutor

**Advocate for Pet/Ap. :** P.S. Chandrasekhara Aiyar and ;P.S. Ramachandra Aiyar, Adv.

**Judgement :**

ORDER

**Somasundaram, J.**

1. The evidence of the doctor shows that even if old sugar juice was taken it may smell like I. D. Arrack. The other symptoms noted namely red eyes and talking at random are consistent with the conduct of a person who is rudely awakened from his sleep and questioned in the manner he has been done. It is the duty of the prosecution to prove that the smell can come only from I. D. arrack, if the inference

is to be drawn about consuming liquor from the smell alone. This it has not done. The other symptoms also must be proved to be due only to the effect of liquor. Such a proof is lacking.

2. In the circumstances it cannot be stated that the prosecution has made out its case beyond all doubt. The conviction and sentence are set aside and the accused is acquitted.

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