In Re: Pendyala Narasanna and ors.

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SooperKanoon Citation : sooperkanoon.com/797231

Court : Chennai

Decided On : Sep-30-1932

Reported in : AIR1933Mad147; 140Ind.Cas.773

Appellant : In Re: Pendyala Narasanna and ors.

Judgement :
ORDER

Burn, J.

1. The conviction under Section 4, Molestation Ordinance (5 of 1932), is not maintainable. As Mr. K.S. Jayarama Ayyar for the petitioners contends, the gist of an offence of molestation, as defined in Section 3(a) of the Ordinance is the doing of certain acts,

with a view to cause a person to abstain from doing or to do any act which such other person has a right to do or to abstain from doing....

2. Those words govern the whole of Section 3(a). In this case there is no evidence) whatever, to show that the complainant had a right even to prepare the faces of the toddy trees for tapping. The trees did not belong to him and he has nowhere said that he had got the permission of the owners to tap them. On the other hand, there is positive evidence that the complainant was committing an offence under Section 55, Madras Abkari Act. He had not obtained a license to tap the trees; he had not even got the trees marked. Yet he was having the trees

tapped, as is clear from the evidence of himself, of one of his tappers (P.W. 2), of the Village Munsif (P.W. 5) and of the Excise Sub-Inspector (P.W. 6). In these circumstances it is impossible to hold that the acts attributed to the petitioners were done with a view to prevent the complainant from doing anything which he had a right to do. I therefore set aside the convictions and sentences for offences under Section 4, Molestation Ordinance. (The rest of the judgment is not material for reporting).