

**In Re: Asuram and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/798625](http://sooperkanoon.com/798625)

**Court :** Chennai

**Decided On :** Mar-25-1946

**Reported in :** (1946)1MLJ413

**Appellant :** In Re: Asuram and ors.

**Judgement :**

**Kuppuswami Ayyar, J.**

1. The 13 accused before Court who were trading as partners in stationery articles and other sundry articles have been convicted by the Chief Presidency Magistrate, Madras, for an offence punishable under Sections 9 and 13 of the Hoarding and Profiteering Prevention Ordinance.

2. The case against them was that they had stock of camphor and refused to sell when two customers came and wanted to purchase it. The appellants' case is that they were not dealers in camphor, that therefore they told the customers that they were not dealing in camphor and had no stock for sale. Evidence has been let in that in a room in which they had their stock, camphor was found in some unopened packets. The appellants admitted that two persons came and asked for camphor and that they told them that they had no camphor for sale as they were not dealing in it. There is no evidence to show that the appellants were dealers in camphor. The word 'dealer' has been defined under Section 2 (d) of the Hoarding and Profiteering Prevention Ordinance as a person carrying on business by selling

any article whether wholesale or retail. There is absolutely no evidence to show that these appellants were carrying on trade in camphor at any time. As a matter of fact, four persons were examined to show that they were not dealing in camphor and they had not been cross-examined by the prosecution. The only evidence is that in a room in the building in which they had stock, camphor was found. Unfortunately the appellants tried to let in evidence to show that this camphor belonged to D.W. 5 which has been rightly disbelieved by the Magistrate and there is also evidence that the packets in which camphor was kept showed that they were despatched from Bombay to Madras by the first appellant to his own address. But that will not help the prosecution because it will only show that the first accused was in possession of camphor obtained by him from Bombay. The charge is not for being in possession of camphor but for refusing to sell camphor when it was demanded. If the appellants are not dealers as defined under the Ordinance, then they are not liable to be punished for the offence with which they have been charged.

3. I therefore set aside the convictions and sentences and acquit the appellants. The fine, if already collected, will be refunded.

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