

Emperor Vs. Govindarajulu

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Court : Chennai

Decided On : Sep-29-1915

Reported in : 30Ind.Cas.752

Judge : William Ayling and; Phillips, JJ.

Appellant : Emperor

Respondent : Govindarajulu

Judgement :

1. The accused in this case was prosecuted for disorderly behaviour in a place of public resort (to wit, the grounds of the Madras Harbour), an offence under Section 75 of the Madras City Police Act. He has been acquitted on the ground that the harbour premises do not constitute a place of public resort. In our opinion the Presidency Magistrate has taken too narrow a view of the law. It is true that the by-laws framed, under the Port Trust provide for prosecution as trespassers of persons who enter on the harbour premises without having business there or with the ships lying in the harbour: and from the Magistrate's judgment it appears that such people (as he says, mainly coolies, or up-country visitors) are actually prosecuted before him. But it is perfectly clear from the statement of objects and reasons for the amended by-laws printed in G.O. No. 841, Marine, dated 22nd October 1912, that By-law 22 which provides for the exclusion of the general public, was not intended to be enforced against respectable people. The trustees say:

We cannot pretend to keep respectable people entirely out of our premises during working hours, simply because it would be intolerable for them to be perpetually questioned. But at least we may say that they cannot claim admission, and this represents the position we take up better than the old words, will not be admitted.

2. We see no reason to doubt that the by-laws have been worked in principle on these lines; and that respectable members of the public have been freely allowed to enter the harbour premises, as well as the very large number of people who have business in the harbour premises or with the shipping.

3. In these circumstances the harbour premises must be considered a place of public resort. A legal right of access by the public is not necessary to constitute a public place. Vide *Reg. v. Wellard* 14 Q.B.D. 63 : 54 L.J.M.C. 14 : 51 L.T. 604 : 33 W.R. 156 . In the words of Grove, J.,--'A public place is one where the public go, no matter whether they have a right to go or not.' See also *Kitson v. Ashe* (1899) 1 Q.B. 425 : 68 L.J.Q.B. 286.

4. We set aside the order of acquittal, convict the accused of the offence charged and sentence him to simple imprisonment till the rising of the Court. As the accused has been already put to considerable inconvenience by this prosecution, we impose only a nominal sentence.

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