

In Re: Sonaimuthu Ambalam

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Court : Chennai

Decided On : Dec-18-1924

Reported in : 87Ind.Cas.916; (1925)48MLJ502

Appellant : In Re: Sonaimuthu Ambalam

Judgement :

ORDER

Srinivasa Aiyangar, J.

1. The question in this case is whether the accused was properly convicted of the offence of going armed within the meaning of Clause (e) of Section 19 of the Indian Arms Act (Act XI of 1878). It would appear that he has been discharged under Clause (f) of the same section of being in possession of arms in contravention of the provisions of Section 14 or 15. I should have thought that the offence of going armed with fire-arm was considerably more narrow than the offence of being in possession merely of fire-arms. The expression 'going armed' clearly indicates two things, namely, firstly of an intention to use it as a fire-arm and secondly, the possibility of using it. In this case there was only one empty cartridge in the weapon and no cartridges at all have been found on the person of the accused. This alone would show that, in the circumstances under which he was found to be in possession of the fire-arm, it would not be possible for him to use the weapon as a fire-arm. Further, in my judgment, for the purpose of conviction under Clause (e) of that section, there must be some clear evidence of

intention on the part of the accused to use the weapon. That element is absolutely lacking in the present case. If there had been some evidence of his having at least previously used it there would have been proof of an intention at the time when the accused was charged with having committed the offence. But in the absence of any evidence whatever bearing on the intention of the accused to use it as a fire-arm, I think it is clear that the conviction of the accused under that clause was wrong. The conviction and sentence are, therefore, set aside and the fine, if already paid, will be refunded to the accused. The order of confiscation, dated 29th February, 1924 will be set aside and the fire-arm will be restored to its owner if he has still got a license.

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