

In Re: C. Raghava Variar and anr.

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Court : Chennai

Decided On : Mar-29-1951

Reported in : AIR1951Mad885; (1951)1MLJ700

Judge : Panchapakesa Ayyar, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 423 and 439; Madras Gaming Act, 1930 - Sections 8 and 9

Appeal No. : Cr. Revn. Case No. 697 of 1950, (Case Referred No. 53 of 1950)

Appellant : In Re: C. Raghava Variar and anr.

Advocate for Def. : The Public Prosecutor, Adv.

Advocate for Pet/Ap. : S. Venkatachala Sastri, Adv.

Judgement :

ORDER

Panchapakesa Ayyar, J.

1. As accused 1 was acquitted by the Appellate Ct. of the offence Under Section 8, Madras Gaming Act, though it was admittedly his own house & he permitted the gaming therein, obviously on the ground that it was not proved to be a common gaming house, 'it follows that all the accused should also have been acquitted of the offence Under Section 9, which will apply only to gaming in a common gaming

house". There has been also no appeal against the acquittal of accused 1 regarding Section 8 by the State. So, the reference by the Ses. J., North Malabar, is right. When the trunk is cut & falls, the branches will fall by themselves. Though accused 3 & 4 did not appeal, & are not represented before me by any counsel (possibly due to poverty, ignorance of law, despair, etc.) I see no reason why I should reject the reference as regards them alone when there is no difference between their case & the case of accused 1 & 2, in law & in fact, & when Order 41, Rule 33, Civil P. C., allows a Ct. to interfere in the interests of justice for the benefit of even 'ex parte' defts. who have not appealed, & the powers of a criminal Ct. of justice, in revn., are, in this respect, even wider. I accept the reference of the Ses. J., North Malabar, in full & set aside the convictions & sentences; of Accused 1 to Accused 4 Under Section 9, acquit them of that offence, & order the fines, if paid, to be refunded.

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