

**In Re:** A.R. Krishnaswami Chettiar

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**Court :** Chennai

**Decided On :** Apr-03-1950

**Reported in :** AIR1950Mad713

**Judge :** Somasundaram, J.

**Acts :** Essential Supplies (Temporary Powers) Act, 1946 - Sections 3(1) and 3(2);  
Madras Rice Mills Licensing Order, 1947

**Appeal No. :** Criminal Revn. No. 896 and Cri. Revn. Petn. No. 832 of 1949

**Appellant :** In Re: A.R. Krishnaswami Chettiar

**Advocate for Def. :** Asst. Public Prosecutor

**Advocate for Pet/Ap. :** S. Gopalaratnam, Adv.

**Disposition :** Petition dismissed

**Judgement :**

**Somasundaram, J.**

1. The petitioner has been convicted by the Additional First Class Magistrate, Kumbakonam, and sentenced to a fine of Rs. 200 for having hulled paddy in his rice mill without a license, an offence punishable under Section 7 (1) of Act XXIV [24] of 1946 read with Clause 2 (1), Madras Rice Mills Licensing Order, 1947.

2. The facts are these. The petitioner is the owner of a rice mill at Kuttalam and his milling licence is No. 8 of 1943. By an order of the Collector of Tanjore dated 21st July 1948 the said licence was suspended for two months and this offence was on 31st August 1948. On that day, when P. W. 1, the Revenue Inspector of Kuttalam, passed by the side of the mill he heard the noise of the mill working. So he entered the premises and found the brother of the accused hulling boiled paddy. When questioned, the brother asked to be excused. P. W. 1 thereupon prepared a statement and asked the brother to sign the same. When the latter was about to sign it, the accused came in and prevented him from doing so. The accused then asked the person who had brought the paddy to take it away and the rice that was milled was then taken away. P. W. 1 estimated the quantity hulled at 2 kalams. The above facts are spoken to by P. W. 1 and he is supported in his evidence by P. W. 2, a karnam who happened to accompany him at that time.

3. The defence is one of total denial and that the case was falsely foisted on the accused on account of enmity. The accused examined witnesses in support of his version.

4. The lower Court rightly disbelieved the version of the defence witnesses and accepted that of P. Ws. 1 and 2 against whom nothing could be said.

5. In revision it is first contended that P. ws. 1 and 2 should not have been believed particularly in the absence of the production by seizure of the paddy hulled in the mill and the petitioner should not have been convicted on their evidence. It is clear from the evidence of P. W. 1 that the person who brought the paddy was asked to take it away and it was taken away by him. In the circumstances, it was not possible for P. W. 1 to produce the rice. Even otherwise I do not think the mere non-production of the rice is sufficient to disbelieve the prosecution witnesses. I entirely agree with the lower Court in believing the evidence of P. Ws. 1 and 2 and disbelieving the defence witnesses. On the facts therefore the offence is made out.

6. The next contention is that the Madras Rice Mills Licensing Order of 1947 in so far as it relates to prohibition of hailing paddy except in accordance with the conditions of licence issued by the Collector of the District as required by Clause 2

of the order is ultra vires of Clause 2 of Section 3 of Act XXIV [24] of 1946. The contention is that under Clause 2 of Section 3 provision may be made only for regulating by licence or permit, the production or manufacture of an essential commodity, and hulling of paddy into rice is not production or manufacture within the meaning of Clause (2) of Section 3. Production according to the contention of the petitioner, means only production in its native state, i. e., produced in the ground and the word 'manufacture' cannot be said to apply to the process of converting paddy into rice and therefore Clause 2 of the order is ultra vires.

7. Now the word 'produce' or 'production' is not defined in the Act or Order. It is therefore necessary to consider what it means in the section. The word 'produce' or 'production' has not got an exact legal meaning but it requires an interpretation to be put upon it in the statute in which it occurs (Per Rigby L. J. in *Hanfstaengl v. The American Tobacco Co.*, 1895 1 Q. B. 347. In *Bowes v. Ravensworth*, (1855) 3 W. R. 241: 24 L. J. C. P. 73. Cresswell J. observed as follows:

'It cannot be denied I think that coke is a produce of a mine although it is well-known that coal is a produce and coke is baked coal.'

Produce does not therefore mean produce in its native state. In the Law Lexicon by P. Ramanathan I find the following The word produce 'is not necessarily confined to what is grown from the ground. It refers also to a finished article or semi-finished article made from raw material. Thug molasses can fairly be called the produce of sugar mill.'

In any event rice cannot be grown from the land. It is only paddy that is grown in the ground and it has to be converted into rice by some process. Such process may be by hand pounding or means of hulling in a mill. Rice therefore is a production by the mill and under Clause (2) of Section 3 it could be regulated. The Madras Rice Mills Licensing Order is therefore intra vires of Clause (2) of Section 3 of the Act. Apart from this, the order will also fall within the scope of the powers given under Section 3 (1) which is very wide in its terms. The Madras Rice Mills Licensing Order in its preamble says that it was in the exercise of the powers conferred by Section 3 (i) and (ii) of Act XXIV [24] of 1946 that the order was issued. The order in question is not therefore ultra vires and the conviction is for a

violation of the provisions of a lawful order. The point of law also fails. The conviction and sentence are confirmed.

8. The petition is dismissed.

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