

Public Prosecutor Vs. Ponnappan

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Court : Chennai

Decided On : Apr-24-1957

Reported in : AIR1957Mad741; 1957CriLJ1295

Judge : Somasundaram, J.

Acts : [Food Adulteration Act, 1954](#) - Sectionm 14(1); [Madras Public Health Act, 1939](#) - Sections 16

Appeal No. : Criminal Appeal No. 762 of 1956

Appellant : Public Prosecutor

Respondent : Ponnappan

Advocate for Def. : N.S. Raghavan, Adv.

Advocate for Pet/Ap. : Public Prosecutor

Disposition : Appeal dismissed

Judgement :

Somasundaram, J.

1. This is an appeal by the State against the acquittal of the respondent herein for an offence under the Food Adulteration Act, Central Act 37 of 1954. The prosecution was launched by the Health Officer, Erode Municipality, for the

respondent being in possession of adulterated milk for the purpose of sale. The purchase of the milk for the purpose of test was on 22nd December 1955. The Act under which the respondent was prosecuted came into force on 1st June 1955. Under Section 20 of the Act there shall be no prosecution for an offence under this Act except by or with the written consent of the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority. The local authority is defined under Section 2, Clause (viii) as meaning a municipality, the municipal board or municipal corporation, the local area, as found in Sub-clause (1) (a) of Clause (viii) of Section 2. The Health Officer in this case was no doubt authorised by G. O. No. 542, P. H., dated 14th February 1956. The prosecution in this case was before the authorisation by the Government. Previous to this there was another Government Order, G. O, No. 1635, P. H., of 1941, under which the Health Officer in the case of a municipality' was empowered to exercise all the powers under Sections 9, 11, 14, 15, 16 and 28 of the Madras Public Health Act (Act III of 1939). Under Section 16 of the Madras Public Health Act the Health Officer can exercise the functions only under any of the Acts mentioned therein, and Central Act 37 of 1954 is not one of the Acts mentioned therein, and, therefore, the authorisation under Section 16 of the Madras Public Health Act would not avail for the purpose of prosecution. This being not a prosecution launched by the municipality or with the written consent of the municipality, it is invalid. The lower Court was, therefore, justified in acquitting the accused. The appeal is dismissed.