

In Re: Manavala Naidu and ors.

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Court : Chennai

Decided On : Dec-17-1943

Reported in : AIR1944Mad447

Appellant : In Re: Manavala Naidu and ors.

Judgement :

ORDER

Kuppuswami Ayyar, J.

1. Accused 1, 2 and 4 in C.C. No. 455 of 1942 on the file of the Stationary Sub-Magistrate of Trichinopoly seek to have the order of the Sub-Divisional Magistrate of Trichinopoly in C.A. No. 11 of 1943 confirming the conviction of these three accused for the offence punishable under Section 8, Madras Gaming Act, and the sentence of Rs. 50 on accused 1 and 2, Rs. 20 on the 4th reversed. They were tried along with another accused. The prosecution case was that accused 1 and 2 were running the gaming house and that accused 3 and 4 were their servants. The game was one of darts. This is how the game was said to have been played. A board with a number of squares in six colours is kept leaning against the wall. On a table near it is placed a board showing the same six colours. If a person places money on any of those colours on the table he will be given three darts. If he throws the darts and strikes the colour on which he has placed his money he will be given twice the amount staked by him on that colour. Apart from the person who throws the dart others also could take part in the game. That is what is

described as side betting in the judgment of the lower Court. Persons other than those throwing the darts should place their money on any colour other than the colour chosen by the person who throws the darts. If the thrower throws the darts on any of the colours on which they have placed the money they will be entitled to get double the amount staked. The others will lose theirs.

2. The prosecution case is that on 15th June 1942 the Circle Inspector of Police, Law and Order, Trichinopoly, armed with a warrant issued by the District Superintendent of Police made a raid on 45 China Bazar Road, Trichinopoly, where this game was said to be going on. He went there immediately after one play was finished and the second was about to start. One Ganapathi was the person who had staked the money on one colour and he was ready to throw the darts. A number of other persons had placed money on other colours in the board on the table. P.W. 1 saw Ganapathi throw the dart and the money kept by him there. He found a number of other persons standing there. He examined them and ascertained who else had kept the money on the other colours besides those on which Ganapathi had staked. He seized all the articles and he arrested these persons. The defence case was that it was only a game of skill and the accused were not guilty of having committed any offence under the Gaming Act. They also denied there was side betting.

3. The prosecution relied only on the evidence of P.W. 1, the Inspector. A number of witnesses were examined for the defence who stated that there was no side betting. Both the Courts have accepted the prosecution case that there was side betting and held that it amounted to gaming and that therefore the petitioners were guilty. With regard to the thrower of the darts it was found by the appellate Court that it was a game of skill. The conviction of the petitioners was with regard to the side betting by persons who did not take part in the throwing of the dart and who only wagered on the colours on which the thrower was likely to throw the dart. The consciousness on the part of the accused that side betting was a crime and ought not to be allowed is clear from the fact that a number of witnesses stated that not only that there was no side betting but also that a board was put up that there should be no side betting. Several of the defence witnesses stated that when the person who throws the dart stakes his money others were not allowed to place

their money on other colours. The Circle Inspector of Police definitely stated that he found money on all the other colours and that he examined the persons who were there. He also mentioned who it was that staked money on the other colours. I have therefore no doubt that both the Courts were justified in coming to the conclusion that side betting was going on. There was no question of skill involved in such betting.

4. It is next urged that this is not a case in which there is any likelihood of any gain or loss to accused land 2. I am unable to understand how it could be said in a game like this there could be no loss or gain to the proprietors. If a person stakes his money on white and throws the dart and a number of other persons who side bet, stake their money on other colours, it is only the person who has staked his money on the correct colour that will be getting double the amount staked. The others will be losing their bet and that money will go to the proprietor. The decisions relied upon for the petitioners have therefore no application to the facts of this case. Accused 1 and 2 the proprietors running the show, were therefore guilty of the offence punishable under Section 8.

5. So far as accused 4 is concerned he was only a servant. He was engaged only in handing over the darts to the thrower and the game of throwing the darts is a game of skill, so far as the person throwing is concerned. When accused 4 was helping only that person it cannot be said that he committed any offence. I therefore set aside the conviction and sentence against accused 4 but confirm the same against accused 1 and 2.