

In Re: M.E. Sheik Mohamed and ors.

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SooperKanoon Citation : sooperkanoon.com/804049

Court : Chennai

Decided On : Nov-28-1947

Reported in : (1948)1MLJ410

Appellant : In Re: M.E. Sheik Mohamed and ors.

Judgement :

ORDER

Yahya Ali, J.

1. To sustain a conviction under Section 46 of the Madras City Police Act it should be found as a fact that the accused was found gaming or was present for the purposes of gaming in a common gaming house. In the present case there is no finding that the place where the gaming was going on was a common gaming house. On the contrary while acquitting the first accused of an offence under Section 45 of the Act the learned Magistrate held that it was not established that the first accused was the occupier of the house and that he was conducting a gaming house. If in view of this conclusion it was felt that some other person was running a common gaming house at that place such finding should have been recorded indicating the evidence upon which it was based. As a matter of fact, there is no such evidence in this case. In this view, the conviction under Section 46 of the City Police Act cannot be maintained.

2. The petition is allowed, the conviction and sentence are set aside, and the fine, if paid, will be refunded.

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