

In Re: Angamuthu and ors.

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SooperKanoon Citation : sooperkanoon.com/804226

Court : Chennai

Decided On : Oct-07-1948

Reported in : 1949CriLJ665; (1948)2MLJ598

Appellant : In Re: Angamuthu and ors.

Judgement :

ORDER

Subba Rao, J.

1. The 73 accused, who are petitioners before me, were convicted under Sections 41 and 75 of the City Police Act and sentenced to varying terms of imprisonment. In addition they were also fined. The accused, who included women, went in a procession of Fort St. George to demonstrate before the Minister of Law for getting the release of their relatives who were at that time imprisoned in Vellore Jail. They pushed past the sentry at the gate and entered the premises of the Fort. When the police officer arrested three of the ring-leaders, they made a forcible attempt to extricate them from their custody. They also raised slogans against the Ministry in power. The learned Chief Presidency Magistrate, on a consideration of the entire evidence, held that they were guilty of disorderly behaviour. The Chief Presidency Magistrate also found that there was an order of the Commissioner of Police under Section 41 of the City Police Act prohibiting the holding of any meeting, 'gathering, procession or demonstration in any public place, street, or thoroughfare within the limits of the Madras city except under a licence issued by him. It was found that

the accused did not take the licence so prescribed and thus contravened the express terms of that order.

2. Mr. Sundararajan, learned Counsel for the accused argued, that on the evidence the Chief Presidency Magistrate should not have held that his clients were guilty of disorderly behaviour. It is impossible to accept this argument. There is clear evidence in this case,--and there is no reason to reject it,--that the accused gathered in the Fort St. George premises and behaved in a disorderly manner. I accept the finding of the Chief Presidency Magistrate that the accused were guilty of disorderly behaviour. Even so he argued that under Section 75 of the City Police Act the petitioner could not be convicted unless they were also found drunk in addition to their disorderly behaviour. I was inclined to accept this argument on a construction of the provision of Section 75; but it has been brought to my notice by the learned Public Prosecutor that this interpretation had not been accepted to his knowledge for about 25 years. Learned Counsel for the petitioners also does not deny this statement. In the Index of cases prepared by this Court a summary of a judgment of Wallace, J., delivered on 3rd April, 1925, is given. In dealing with the construction of Section 75, the learned Judge says:

The section is unhappily worded. But the idea that the Legislature was deliberately aiming only at such riotous or disorderly persons as are also drunk and incapable of taking care of themselves and not riotous and disorderly persons who are sober and able to take care of themselves is almost ludicrous when viewed along with the general intention and scope of the Act. Therefore being ' guilty of any riotous, disorderly or indecent behaviour ' is a separate offence.

3. I should have thought that this reasoning was a good ground for amending the section; but, whatever it might be, as early as 1925 this interpretation was accepted by Wallace, J. I understand that this judgment has been followed in many other cases. The latest is that of Horwill, J., in *Kannaya Rao v. Emperor* (1944) 2 M.L.J. 322. The learned Judge accepts the construction put upon the section by Wallace, J., no doubt without reference to that judgment. Though I still have my doubts on the construction of Section 75, on the principle of stare decisis I follow the construction accepted by so many judges of this Court for so long a

period. If that construction is accepted and on the finding the accused were guilty of disorderly behaviour, the conviction under Section 75 by the Chief Presidency Magistrate is correct.

4. Though Mr. Sundararajan raised the point that Fort St. George is not a public place within the meaning of Section 75, he did not pursue the matter and expressed his inability to substantiate that argument in view of some decisions which, he said, took a different view.

5. Coming to Section 41, as there was an order of the Commissioner in the terms stated already and as no permit was taken as required by that section, the accused were guilty thereunder. I therefore agree with the Chief Presidency Magistrate and hold that the conviction is correct and the fines imposed on the accused are reasonable. But in the circumstances of the case and in view of the fact that the accused started to proceed to Fort St. George with a legitimate object, though they subsequently became unruly having regard to some circumstances that happened there, the sentences of imprisonment are reduced to the terms already undergone by them. With this modification the revision petition is dismissed.