

**In Re: Manikka Pillai**

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**Court :** Chennai

**Decided On :** Mar-24-1955

**Reported in :** (1956)1MLJ51

**Appellant :** In Re: Manikka Pillai

**Judgement :**

ORDER

**Somasundaram, J.**

1. This is a revision case against the order of the District Magistrate, Judicial, Chingleput, confirming the conviction under Section 4(1)(a) of the Madras Prohibition Act and the sentence of 6 weeks' rigorous imprisonment passed on the petitioner by the Sub-Magistrate, Maduranthakam.

2. The case for the prosecution was this. On 31st August, 1954, at 5-30 p.M., the Sub-Inspector of Prohibition, Maduranthakam, searched the house of the petitioner and seized a hand bag containing three bottles of arrack. A search list, Exhibit P-1, was prepared by two witnesses, one of whom was P.W. 2, the karnam of the village. The Sub-Inspector had also taken statements both from the petitioner and P.W. 2. P.W. 2, in his statement Exhibit P-3, stated that he was present at the search and that he had attested Exhibit P-1. In the trial Court, he had completely gone back on the statement made to the Sub-Inspector and said that the petitioner was not present when the Prohibition Officers came, that the

three bottles of arrack were found on the pial, that the petitioner came only later, and that no house search was made. Not contented with this, he further went on to say that the house from which the bottles of arrack were seized did not belong to the petitioner which was not the case of the petitioner himself. The learned District Magistrate is fully justified in his criticism of the conduct of P.W. 2, the karnam, who has undoubtedly given false evidence. If the house was really not searched by the Sub-Inspector and the bottles of arrack were not seized from the house, I cannot understand how the karnam would ever have attested Exhibit P-1. I am satisfied that he has been gained over by the petitioner and he has deliberately given false evidence to support the petitioner. Being a public servant working under the Government, he ought to have behaved better. He does not deserve to be retained in his appointment any longer. A copy of this judgment will be forwarded to the District Collector, Chingleput, for necessary action against the karnam.

3. Mr. Sundararajan, the learned Counsel for the petitioner, relying on *Abdullah v. State* (1951) M.L.J. 698, a decision of this Court, contends that when the search itself is disputed and the witness for the search has turned hostile, the evidence of the Sub-Inspector should be corroborated by other evidence. In short, his contention is that the evidence of the Sub-Inspector alone is not sufficient to convict the petitioner. I cannot agree. *Panchapakesa Ayyar, J.*, held in a similar case *Crl. R.C. Nos. 1271 to 1276 of 1950*, that evidence of Prohibition Officers was sufficient to sustain the conviction. Speaking for myself, I think the evidence of the Sub-Inspector of Prohibition is sufficient to convict the petitioner in this case. Section 103(2), Criminal Procedure Code, says that no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it. This shows that normally such witnesses need not be examined by the Court for convicting the accused. There may be cases in which evidence of the Prohibition Officer may be such as not to commend itself to Courts. In such cases witnesses of search will have to be examined to prove the search and seizure. In this case, I am satisfied that there are no such circumstances as to necessitate the examination of the witness for the search. There is no reason to disbelieve the evidence of the Prohibition Officer. The guilt of the petitioner is proved beyond all reasonable doubt. The conviction is

confirmed, but in view of the fact that the petitioner has undergone 4 weeks rigorous imprisonment, there is no need to send him back to jail for the remaining period. The sentence is therefore reduced to the period already undergone by him.

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