

Public Prosecutor Vs. Munusami Mudali

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Court : Chennai

Decided On : Sep-06-1929

Reported in : AIR1930Mad448

Appellant : Public Prosecutor

Respondent : Munusami Mudali

Judgement :

Jackson, J.

1. This is an appeal against an acquittal. Accused was acquitted for an offence under Section 224, I.P. C, because his arrest in his house by a searching abkari officer was held to be illegal.

2. The point taken by the learned Public Prosecutor is that under Section 30, Act i of 1886, the Collector may issue a warrant authorizing a search, and under Section 31 an abkari or police officer of a certain rank after recording reasons may search. The officer in the latter case under Section 31 may, if necessary, arrest, but, though the person to whom a warrant is given, may be an officer of the same rank, he is not authorized under Section 30 or any other section to arrest. It is anomalous that an officer armed with nothing more than his own report can arrest, and an officer armed with a regular search warrant cannot arrest.

3. I fully see the anomaly,.but I am unable to read the Act so as to avoid it. The Act seems to be badly drafted.

4. In these circumstances, the acquittal must stand. The appeal is dismissed.

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