

In Re: Muthusamy Odayar

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Court : Chennai

Decided On : Jun-23-1971

Reported in : 1972CriLJ795

Judge : Somasundaram, J.

Appellant : In Re: Muthusamy Odayar

Judgement :

ORDER

Somasundaram, J.

1. The Electrical charge-man who had examined M. O. 1 and issued the certificate Ex. P. 5 has not been examined by the prosecution to prove that it is railway property in actual use. The prosecution has not adduced any evidence to show that there was cause for reasonable suspicion of the stores being stolen or unlawfully obtained. Before any one can be charged with the offence under Section 3 of the Railway Stores (Unlawful Possession) Act 1955, it must be shown that he was in possession of railway stores which by the definition of Section do not include all articles which are the property of a railway administration but only those which are used or intended to be used in the construction, operation or maintenance of a railway. There is no evidence to this effect in the case. Mere unlawful possession of the property of any railway administration is not an offence. The prosecution must also prove that the articles were being actually used or were

intended to be used for by the railway, (vide : 1970 CriLJ1647 Kashmirilal v. State of Uttar Pradesh). The conviction is set aside so also the order directing the release of the petitioner under Section 4 (1) of the Probation of Offenders Act. The bond executed shall stand cancelled. The revision is allowed. The order relating to the return of the M. Os. will stand.

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