

**In Re: Mudduleti Buggappa and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/809967](http://sooperkanoon.com/809967)

**Court :** Chennai

**Decided On :** Jan-23-1948

**Reported in :** (1948)1MLJ440

**Appellant :** In Re: Mudduleti Buggappa and anr.

**Judgement :**

ORDER

**Govinda Menon, J.**

1. I am not satisfied that the son, the second petitioner, can be con-victed of having stored for sale quantities of Bengal gram in excess of that allowed in the licence in favour of his father, the first petitioner. There is nothing to show that except in the capacity of a junior member of the family the second accused was in control of the 1,200 seers of Bengal gram seized by P.W. 2, the Commercial Tax Officer. As laid down by this Court in M. Muniswami Goundan<sup>1</sup>, where the manager of the family is the licensee, it cannot be said that any junior member of the family by engaging himself in the family trade, can be found guilty for not having a separate licence in his own name. Considering the circumstances that in the case of a joint family consisting of the father and the son as it is a common practice for the son to help the father in carrying on the business, it does not mean that the son himself is either in sole possession or stored the articles which the family deals in. In these circumstances the conviction of the second petitioner cannot stand and he is therefore acquitted.

2. As regards the first petitioner, I see no reason to doubt the evidence of P.W. 2 and that of the attesting witness P.W. 1. More than the permitted quantity of Bengal gram was found in the business premises of the family. Mr. Srinivasa Aiyangar's contention that in the charge it is not specifically stated that there was a storage for sale, does not appeal to me in view of the fact that P.W. 2 states in his evidence that these bags of Bengal gram were found in the business premises of the first petitioner and it is also admitted that the first petitioner had licence for purchasing and selling grains and other commodities in retail. Therefore it is permissible to infer from this as the Magistrate has done, that the storage of this excess quantity was for sale. The conviction of the first petitioner is therefore right and the sentence is not excessive. It is pointed out that the entire quantity of Bengal gram has been confiscated and not the excess quantity, the storage of which alone will amount to an offence. In modification of the order of the lower Court I direct that the quantity of Bengal gram in excess of the 25 maunds alone be confiscated. The petition so far as the first petitioner is concerned is dismissed and so far as it concerns the second petitioner it is allowed.