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Court : Chennai

Decided On : Oct-20-1925

Reported in : 92Ind.Cas.873

Judge : Jackson, J.

Appellant : Alamapath Krishnan

Respondent : The Municipal Prosecutor, Cunnanore Municipality

Judgement :

ORDER

Jackson, J.

1. Petitioner seeks to revise the finding and sentence of the Bench Court, Cunnanore, fining him Rs. 10 for failure to take out a license under Section 249, Act V of 1920.

2. It is admitted that petitioner has a weaving factory containing nine looms of the sort which the weaver works with his hands and feet, known as a maggom or European loom. The Bench has found that he was liable to take out a license for using for an 'industrial purpose' machinery as provided in Sub-clause (q) of Schedule V, Act V, 1920. The question for determination is whether those looms are machinery within the mischief of the Act.

3. The learned Public Prosecutor argues that the Sub-clause (q) covers anything which is likely to be dangerous to human life, or health or property, and any machinery used for an industrial purpose which is thus dangerous requires a license. On this interpretation of the clause, the word 'machinery' would be otiose. So long as the industrial process were dangerous, it would not matter whether it was performed by hand, instrument or machine; it would still have to be licensed. Something more than a mere dangerous process is evidently intended by 'machinery' but the question is within what limits the word is employed. It cannot have been intended that anything which is commonly called a machine must be licensed. For instance, no one has ever supposed that singer's sewing machines required license, and the literary sense of the word is too general to afford any guidance. In old English, machine was synonymous with universe, and when Hamlet concludes his letter to Ophelia, 'Thine ever more most dear lady, whilst this machine is to him', he treats the word as the equivalent of body. For a long time machine was used as another word for vehicle, a meaning which survives in 'bathing machine', and is still, I gather from the Public Prosecutor, prevalent in the more remote parts of the British Isles, and although such general sense are long obsolete and the term is now confined to some sort of apparatus for applying mechanical power, it has within those limits a very wide application. Not only a handloom but any hand instrument which involves more than one simple mechanical principle is a machine. For instance, though a hammer may be called an instrument, a nail extractor is a machine and a hand ginning apparatus is a machine. Thus even in its ordinary sense 'machine' would seem to have a wider connotation than the clause intends. The Statute itself affords no assistance by way of definition; but I observe that Section 250 refers to mechanical power and I think that this points to the right interpretation. As observed by Professor Murray in the Oxford Dictionary in recent use, the word tends to be applied especially to an apparatus so devised that the result of its operation is not dependent on the strength or manipulative skill of the workman. In other words an apparatus driven by other than human and, I would add, animal power; I think that the machinery contemplated in the Act is machinery worked by power such as steam, water, or electrical power; and machinery worked by hand such as handlooms, or sewing machines is excluded. This, of course, is the limited sense in which machinery was

understood at the time of the Luddite and similar riots. No doubt this is an arbitrary decision, and it would be better if the Statute contained its own definition, but it is the only definition which, after a careful consideration of the matter, seems to afford the licensing officer a clear criterion, and also to confine 'machinery' in Clause (q) to such forms of machinery as may reasonably be held to be in the same category as combustibles, and unwholesome or dangerous trades.

4. I find that a collection of maggoms is not machinery under Schedule V(q). The petition is allowed and the conviction set aside. The fine should be refunded.

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