
(1991) 02 MAD CK 0090

In the Madras High Court

Case No : Criminal R.C. No. 322 of 1986

Dhandapani and Others

APPELLANT

Vs

The State, by Dy. Registrar, Madurai Housing Board

RESPONDENT

Date of Decision : 07-02-1991

Acts Referred:

Tamil Nadu Co-operative Societies Act, 1961 — Section 101

Citation : (1991) LW(Cri) 320

Hon'ble Judges : S.T. Ramalingam, J

Bench : Single Bench

Advocate : G.K. Selvarajan, for the Appellant; T. Muruganandam, for Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

S.T. Ramalingam, J.—The revision Petitioners, who are the Office-bearers of the Dindigul Co-operative Housing Society, along with one

Venkatachalam, paid-Secretary of the said Society, were tried for an offence u/s 101 of the Tamil Nadu Co-operative Societies Act, for having

disobeyed the order of the Deputy Registrar in not collecting the excess payment made to the employees of the Society and were released u/s 3 of

the Probation of Offenders Act. Aggrieved by the said conviction and sentence, the revision Petitioners jointly preferred an appeal before the

learned Sessions Judge, Anna District at Dindigul. The paid-Secretary, Venkatachalam also preferred a separate appeal. The appeal preferred by

the revision Petitioners was dismissed while the other appeal preferred by the paid-Secretary of the Society was allowed on the ground that the

paid-Secretary is not attracted u/s 101 of the Tamil Nadu Co-operative Societies Act, since he is not an office-bearer. Aggrieved revision

Petitioners have come up with this revision.

2. The learned Counsel for the revision Petitioners contended that the prosecution against the revision Petitioners is bad for want of sanction by the

Registrar, even though the complainant happens to be the Deputy Registrar, on whom the powers of the Registrar had been conferred by G.O.

5292 Labour and Co-operative Department, dated 5.11.1963. The trial court as also the appellate Court were of the view that where a Deputy

Registrar, on whom the powers of the Registrar had been conferred files a complaint, no sanction is necessary. Such a reasoning, according to the

learned Counsel for the revision Petitioners is opposed to the decision of this Court rendered in Public Prosecutor v. Palikonda Perumal Pillai 69

L.W. 287 . I entirely agree with the contention raised by the learned Counsel for the revision Petitioners and as per the decision cited above, the

Deputy Registrar cannot himself give sanction and he has to file the complaint with the sanction obtained from the Registrar only. As such, I find the

prosecution is bad for want of sanction.

3. In the result, the conviction and sentence imposed against the revision Petitioners are set aside and they are acquitted, and this revision shall

stand allowed.