

(1941) 07 MAD CK 0007

In the Madras High Court

In Re: A.S. Sehu Mohammed Maraikayar

Date of Decision : 24-07-1941

Acts Referred:

Madras Local Boards Act, 1884 — Section 229

Citation : AIR 1941 Mad 834(2) : (1941) 54 LW 231 : (1941) 2 MLJ 356

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—The petitioner was convicted by the Second Class Magistrate of Tiruchendur of an offence punishable u/s 229 of the Local

Boards Act for having uttered offensive abuse on the occasion of a demand for tax being presented to him by the complainant, a bill collector of

the Panchayat Board of Kayalpatnam. He was fined Rs. 15 and the conviction and sentence were affirmed on appeal to the Sub-Divisional First

Class Magistrate of Tinnevely.

2. The learned advocate for the petitioner contends that even though it was true that the petitioner uttered the abusive language complained of, it

would not be an offence punishable u/s 229 of the Local Boards Act. Section 229 runs thus:

No person shall obstruct or molest, a local board....or any person employed by the local board,....in the performance of their duty or anything

which they are empowered or required to do by virtue, or in consequence, of this Act or of any by-law, rule, regulation or order made under it.

3. It was contended by the prosecution that the bill collector was molested. The word "molest" to my mind carries with it some suggestion of

interference or restraint or obstruction; but that is not the ordinary dictionary meaning. The Oxford Dictionary does give a meaning of this kind:

To interfere or meddle with (a person) injuriously or with hostile intent;
but it adds that this meaning is almost exclusively used in negative contexts. The positive meaning would seem to be,
subject to intentional annoyance;
in which case it might be said that the accused did molest him. This meaning is sometimes used in English law; for example, a woman is said to molest a man within the meaning of the "'Bastardy Act'" if she falsely imputes to him that he is the father of her illegitimate child; and a creditor who is a signatory to a deed of agreement is said to molest a debtor if the agreement is broken by his bringing an action against the debtor for a debt included in the deed. It is of some interest that a definition of "'molestation'" is given in Ordinance No. 5 of 1932, which was drawn up in connection with the boycott of 1931-1932, and the principal part of that definition was that a person is said to molest another person who:
With a view to cause such other person to abstain from doing or to do any act which such other person has a right to do, or to abstain from doing,
obstructs or uses violence to, or intimidates such other person or anyone in whom such person is interested, or loiters at or near a house where such person or anyone in whom such person is interested, resides or works or carries on business or happens to be or persistently follows him from place to place or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof.

4. This definition conveys what, in my opinion, seems to be the essence of molestation. However that may be, Section 229 of the Local Boards Act does not make all molestation punishable, but only molestation of a person in the performance of his duty. If, for example, the bill collector had been prevented or hindered in the fulfilment of his duty by this vulgar abuse, I think the petitioner would have been rightly convicted. But it appears that the bill collector went to the house of the petitioner merely for the purpose of serving a demand, and even if he had not been abused by the petitioner he could have done no more than he did. Having served his demand notice, he had nothing to do but to leave again. Section 229 does not make punishable a molestation during the course of the performance of the duty but in the performance of the duty, which suggests that the abuse should not merely take place while the person is engaged in his duty, but

it must in some way interfere with his work. It is not immaterial to state that the person abused was not the bill collector, but some unnamed person inimically disposed towards the petitioner who had given information leading to an exaggerated assessment.

5. Although the petitioner would perhaps have merited the fine imposed on him if he had been charged u/s 504, Indian Penal Code; yet the conviction u/s 229 of the Local Boards Act cannot stand and must be set aside. The conviction is therefore set aside and the fine, if paid, ordered to be refunded.