

(1926) 09 MAD CK 0060

In the Madras High Court

In Re: C.M. Pedda Malla Reddi and Another

Date of Decision : 08-09-1926

Acts Referred:

Citation : AIR 1927 Mad 66 : (1927) ILR (Mad) 479 : (1926) 24 LW 655 :
(1926) 51 MLJ 685

Judgement

1. The chief question for decision in this case is whether the act of the appellants, viz., publishing an advertisement of a Rs. 52,500 lottery, by which a ginning factory was to be raffled at Rs. 5 tickets, is an offence within Section 294(a) of the Indian Penal Code. The argument is that "goods" in the section applies only to moveables, and that if the Legislature had intended to include Immovable property, it would have said so in appropriate words. We are not able to accept this contention. The idea of the lottery was that the lucky winner should get the factory for less than its real value, viz., for the actual sum he paid for his tickets, which would undoubtedly be for his "benefit". The proposal therefore was to do something "for the benefit of any person". There seems no reason short of complete oversight, why a lottery for moveable goods should be an offence and a lottery for Immovable goods not an offence. The general clause was evidently regarded as sufficient to cover the latter case. The Public Prosecutor has called out attention to the wording of the English Acts, still in force, 8 George I, Chap. II, Section 36 and 12 George II; Chap. XXVIII, Section 1 both of which enact that a lottery for "lands" is an offence. We think there is no substance in this contention.

2. The next argument is that there is no case proved against the 1st appellant. The Lower Courts have found as a fact that he took part in the publication, and we cannot say that there is no evidence on which they could do so. It is quite clear that the 1st appellant's name was throughout associated with the lottery. We reject this contention also.

3. It is finally urged that the sentence is heavy. We agree with this. All that was called for in the circumstances was a vindication of the law. The lottery was not held and no one is the worse for the publication. We reduce the line to a fine on each appellant of Rs. 100 (Rupees One hundred) each. The balance, if paid,

should be refunded.