**(1960) 02 MAD CK 0016**

**In the Madras High Court**

**Case No :** Criminal Revision Case No''s. 683 to 686 of 1959 (Criminal Revision Petition No''s. 664 to 667 of 1959)

**In Re: Muthiah Chettiar**

**Date of Decision :** 11-02-1960

**Acts Referred:**

**Citation :** (1960) 2 MLJ 474 : (1960) 11 STC 287

**Hon'ble Judges :** Ramaswami, J

**Bench :** Single Bench

**Advocate :** M. Narayanamurthi, for The Public Prosecutor, M. Srinivasagopalan, for the Appellant;

**Final Decision :** Dismissed

## Judgement

Ramaswami, J.—This batch of revision cases arises from the convictions and sentences in C.C. Nos. 29 to 32 of 1959 on the file of the

Sub-Divisional Magistrate, Koilpatti. The accused, who is an oil-monger, was convicted u/s 15(2)(a) of the Madras General Sales Tax Act. The

Sub-Divisional Magistrate sentenced the appellant to fines of Rs. 300, Rs. 400, Rs. 400 and Rs. 600. But the Additional Sessions Judge,

Tirunelveli, affirmed the conviction, but reduced the sentences uniformly to Rs. 100 each.

2. The facts are short. The revision petitioner is an oil-monger running a country chekku for expelling oil. I need not point out that a country press

can be used for extracting oil from groundnuts, gingelly, cocoanuts and castor seeds.

3. On 13th November, 1966, P.W. 1, the Special Assistant Commercial Tax Officer inspected the shop of the accused and found him dealing in

different kinds of oils and trading in oils by purchasing from others. He recorded the statement, exhibit P 1, wherein the accused admitted that he had purchased oil from others and that he had been stocking them.

4. So far as C.C. Nos. 29 to 32 of 1959 are concerned, the accused stated that he had purchased cocoanut oil from one Karuppiah Nadar of

Sankarankoil. Fifteen tins of groundnut oil, 5 tins of castor oil, 1/2 tin of gingelly oil and 11/2 tins of cocoanut oil were found in the shop of the

accused.

5. From the statement recorded by the Assistant Commercial Tax Officer from the accused, it was seen that the accused had a total turnover of

Rs. 31,254-11-0 during April, 1952, to March, 1953. The turnover for 1953-54 was Rs. 24,858-13-0; the turnover for 1954-55 was Rs.

22,301-12-6; and the turnover for 1955-56 was Rs. 34,094-3-6.

6. Thereupon, the Deputy Commercial Tax Officer, Sankarankoil, took further action and one set of action related to levying of the escaped

assessment which resulted in the Sales Tax Appellate Tribunal finally dismissing the appeal of the accused and recovery of the escaped assessment

from the accused. The other set of action was the prosecuting of this accused for offences u/s 15(2)(a) of the Madras General Sales Tax Act read

with Rule 11 of the Madras General Sales Tax (Turnover and Assessment) Rules in that the accused wilfully failed to submit accounts.

7. The case for the accused was that because he has been keeping a country oil press, he is exempted from payment of sales tax and submission of

returns.

8. The Notification G.O. No. 1323, Revenue, dated 6th May, 1953, states :

In exercise of the powers conferred by Section 6 of the Madras General Sales Tax Act, 1939, (Madras Act IX of 1939), the Governor of

Madras hereby exempts permanently with effect from the 1st April, 1953, every person owning or having an interest in country oil chekkus, single

or multiple and dealing exclusively in the produce of such chekkus from payment of any tax u/s 3(1) of the said Act in respect of such dealings.

9. But the facts here clearly show that the accused was not dealing exclusively in the oils expelled by the chekku run by him. On the other hand, he

has been purchasing from others land trading on that oil. His turnover also clearly shows that he could not have been dealing in the very small

quantities which alone his country oil press would expel.

 

10. The convictions are, therefore, correct and the sentences are proper. The revisions are dismissed.

 