

(1947) 08 MAD CK 0015
In the Madras High Court
In Re: Prem Raj Sowcar

Date of Decision : 12-08-1947

Acts Referred:

Tamil Nadu Pawnbrokers Act, 1943 — Section 18(1), 3(1)

Citation : AIR 1948 Mad 177 : (1947) 60 LW 600 : (1947) 2 MLJ 324

Hon'ble Judges : Rajamannar, J

Bench : Division Bench

Judgement

Rajamannar, J.—The petitioner was convicted by the learned Chief Presidency Magistrate of an offence u/s 3(1) and 18(1) of the

Pawnbroker's Act (XXIII of 1943). The evidence on which the conviction was based was that on the 24th February, 1946, P. W. 2, went to the

shop of the accused and wanted money on a silver waist cord. The accused said he would buy it outright for Rs. 5 but P. W. 2, refused to sell it

and he was prepared only to pledge it. The accused accepted the article on pledge for Rs. 5 for a month on an interest of Re. 0-8-0. This is all the

evidence in the case. There is no evidence that the accused took any other article on pledge. Section 3(1) of the Act says ""No person shall carry

on or continue to carry on business as a pawnbroker unless he has obtained a pawnbroker's licence under the Act."" ""Pawnbroker"" is defined as a

person who carries on the business of taking goods and chattels in pawn for the loan. In my opinion the Act clearly contemplates a person being

engaged in the business of taking goods and chattels in pawn for a loan and it would not have been in the contemplation of the Act to bring within

the mischief of its provisions any person who casually may take on pledge any article. There is no evidence that the instance of which there was

evidence was anything but a stray instance. The prosecution, therefore, did not establish either that the accused was a pawnbroker or that he

carried on business as a pawnbroker. The conviction was therefore clearly unsustainable. I set aside the conviction and acquit the accused. The fine, if collected, will be refunded.