
(1958) 11 MAD CK 0036

In the Madras High Court

Case No : Criminal Revision Case No. 537 of 1958 and Case Refd. No. 16 of 1958

In Re: T.P. Chakrapani Chetty

Date of Decision : 14-11-1958

Acts Referred:

Wireless Telegraphy Act, 1933 — Section 6

Citation : AIR 1959 Mad 350 : (1959) CriLJ 1086 : (1959) 72 LW 92 : (1959) 1 MLJ 143

Hon'ble Judges : Ramaswami, J

Bench : Single Bench

Advocate : V.V. Radhakrishnan, for Public Prosecutor, for the Appellant;

Judgement

Ramaswami, J.—This is a reference made by the District Magistrate (Judicial), North Arcot, at Vellore, in the following circumstances.

2. The Wireless Licence Inspector, Vellore, filed a complaint against the accused herein in the Court of the Sub Magistrate, Tirupattur on 3-9-1957, for having been in possession of a wireless receiving set in his residence at Tirupattur from 1-1-1955 to 23-12-1955 without a valid broadcast receiver licence, an offence punishable u/s 6 of the Wireless Telegraphy Act (XVII of 1933). The licence fee and surcharge claimed by the Indian Posts and Telegraphs Department for the year 1955 were as follows :

Broadcast receiver licence fee from 1-1-1955 to 31-12-1955 Rs. 15-0-0 Re. 1 for every month of delay or portion thereof commencing from 1-2-1955 till date of payment. By a letter dated 20-9-1957 (No. N. R. 54/T.P.T.) addressed to the Sub Magistrate, Tirupattur, the Wireless Licence Inspector represented that the Department has incurred an expenditure of Rs. 27-12-0 by way of traveling expense to attend the Court on 3rd, 10th and 20th September 1957, and requested the Sub Magistrate to take into consideration this sum of Rs. 27-12-0 also while imposing a fine, if deemed necessary.

3. The Sub Magistrate, Tirupattur, examined the accused u/s 242 , Cri. P. C and on the admission of the accusation by the accused, sentenced him to pay a fine

of Rs. 28, or, in default of payment of the fine, to suffer simple imprisonment for 3 weeks, in addition to the sum of Rs. 47 due to the department (licence fee Rs. 15 plus surcharge Rs. 32). The Sub Magistrate has not however taken into consideration the claim of Rs. 27-12-0 made by the Wireless Licence Inspector in his letter dated 20-9-1957. The following note is made by the Sub Magistrate on the above said letter under date 20-9-1957, "Request Inspector to give concrete instance in other Courts for seeking clarification from District Magistrate".

4. The fine amount of Rs. 28 and the licence fee of Rs. 47 have been realised and credited to Government and the Post and Telegraphs Department respectively.

5. The learned District Magistrate rightly points out that there is no provision in the Wireless Telegraphy Act authorising criminal Courts to collect any amount due to the department, as if it were a fine and so the order of the Sub Magistrate in directing the recovery of the licence fee and surcharge of Rs. 47 from the accused is illegal.

6. In the circumstances reported by the District Magistrate the entire sum of Rs. 75 will be treated as fine and the sum of Rs. 47 paid over to the Posts and Telegraphs Department will be treated as part of fine which has been awarded as compensation to the department for loss caused to it towards licence fee and surcharge. This is regularising what has been irregularly done.

7. The reference is accepted accordingly.

8. Reference accepted accordingly;