
(1986) 08 MAD CK 0008
In the Madras High Court
Case No : C.M.A. No. 756 of 1981

M. Arunachalam

APPELLANT

Vs

The Deputy Director, Enforcement Directorate

RESPONDENT

Date of Decision : 06-08-1986

Acts Referred:

Foreign Exchange Regulation Act, 1973 — Section 9

Citation : (1987) 11 ECC 229

Hon'ble Judges : Sathiadev, J; Maheswaran, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Maheswaran, J.—This appeal is directed against the order of the Foreign Exchange Regulation Appellate Board (hereinafter referred to as

the Board), confirming the order of the Deputy Director, Enforcement Directorate, Madras, finding the appellant guilty of contravention of Section

9(1)(b) of the Foreign Exchange Regulation Act, 1973 and imposing on him a penalty of Rs. 6,000.

2. The gravamen of the charge is that the appellant received Rs. 30,000 from an unknown person in India in May, 1974 on instructions from one

Rakappa Chettiar, who was residing in Malaysia without the permission of the Reserve Bank of India. The appellant gave a statement admitting the

receipt of the amount on instructions from Rakappa Chettiar. The appellant contends before us that the Board was wrong in acting on the

statement of the appellant that the amount was received from Malaysia on instructions from Rakappa Chettiar, that this statement was written to a

dictation of the Enforcement Officers concerned, and that the appellant has also retracted on 7-1-1977. A statement made to an Enforcement

Officer is perfectly admissible in evidence (in C.M.A. Nos. 119 to 121 of 1981 (Since reported as K.T. Subramanian Chettiar and Others Vs.

The Deputy Director, Enforcement Directorate, Madras and Another, this Bench has held today that the statement made to an Enforcement

Officer is clearly admissible in evidence). Then, there is a categoric admission by the appellant that they wanted to visit Kasi and other places, and

for that purpose he asked for a sum of Rs. 30,000 from the agent of his father Rakappa Chettiar who was looking after his money lending business

in Malaysia, that Rakappa Chettiar in May, 1974 wrote to him that he has arranged for the payment of the amount at the appellant's house at

Devakottai, that an unknown person accordingly visited his house and gave that amount and they went on pilgrimage and spent that amount. It is

pointed out by the learned Counsel for the appellant that the recitals in the statement show that the amount was spent for pilgrimage and for the

wedding of the sister of the Appellant and that they visited Kasi, Nepal and other places and while returning, they have purchased some goods

which were confiscated and the Enforcement Officers have not seized the wedding invitation nor has the department proved that the goods have

been confiscated and there is no corroboration in respect of the statement of the appellant. It should be noted that the statement was retracted only

on 7-1-1977. Once when the statement was found to be voluntary, the statement can be acted upon and there is no need for corroboration. The

fact as to how the appellant spent the amount after the receipt is not relevant and the authorities are not bound to prove the application of the

amount so received. Therefore, we hold that the Deputy Director, Enforcement Directorate and the Board were correct in relying upon the

statement of the appellant and acting upon it and imposing penalty. We agree with the conclusion that the appellant was guilty of contravention of

Section 9(1)(b) of the Foreign Exchange Regulation Act, 1973. We also agree with the order imposing penalty of Rs. 6,000. The appeal fails and

is dismissed with costs.