

(1944) 07 MAD CK 0005
In the Madras High Court

Muvvala Nagendrudu and Another	APPELLANT
Vs	
Meduri Venkataraghavayya and Another	RESPONDENT

Date of Decision : 14-07-1944

Acts Referred:

Citation : AIR 1944 Mad 564

Hon'ble Judges : Kuppuswami Ayyar, J;Kuppuswami Aiyar, J

Bench : Division Bench

Judgement

Kuppuswami Ayyar, J.—These two cases arise out of C. C. Nos. 69 and 70 of 1943 on the file of the Joint Magistrate, Ongole. The

petitioners in these two cases were retail merchants dealing in kerosene in Santharavur, Bapatla taluk. I have heard these cases together as the

question at issue in both is the same. In both the charge was that the accused were guilty of an offence punishable under the Defence of India Rules

as they did not issue receipts for the sales of kerosene by them and did not exhibit any board notifying the price at which the oil was sold. There

was also a charge for not having kept measuring vessels, but no finding has been given on that charge and there has been no conviction with regard

to that. The notification for the disobedience of the provisions of which these petitioners were prosecuted under Rule 81(4), Defence of India

Rules, was a notification issued by the Collector of Guntur. It is contended that that notification deals only with wholesale dealers and not with retail

dealers and as the petitioners were only retail dealers they could not be said to have contravened the provisions of that notification. The notification

is D. Dis. No. 1087 of 1943, dated 15th May 1948 and para. 3 of that notification runs thus:

The licensee shall issue to every customer a correct receipt giving the name, the licence number, the date of the transaction, the quantity sold, the rate at which sold and the total amount charged and shall keep a duplicate of the same to be available for inspection on demand by any officer authorised by the Collector.

Paragraph 2 runs thus:

Every licensee shall display and keep displayed in a prominent position in his shop or other place of business a copy of the list of maximum prices of kerosene fixed by the Collector and a copy of the correct list of stocks held by him.

The use of the expression ""licensee"" clearly indicates that it is only persons who have to take a licence and who have a licence that are to comply with the provisions of these two paragraphs. It is not pointed out that there is any notification or rule framed which would require retail dealers in kerosene to take out licences and it is stated by the learned Public Prosecutor that he is not able to point out any notification or rule which would necessitate retail dealers taking licences. Consequently, it cannot be said that the petitioners in these two cases had contravened the provisions of the notification referred to above. The convictions of the petitioners in both these petitions are set aside and they are acquitted. The fines, if already collected, will be refunded.