
(1939) 03 MAD CK 0002
In the Madras High Court

Public Prosecutor

APPELLANT

Vs

D.S. Raju Gupta and Others

RESPONDENT

Date of Decision : 14-03-1939

Acts Referred:

Provident Insurance Societies Act, 1912 — Section 22

Citation : AIR 1940 Mad 682

Hon'ble Judges : Lakshmana Rao, J

Bench : Division Bench

Judgement

Lakshmana Rao, J.—This is an appeal by the Provincial Government against the acquittal of the respondents of an offence u/s 22, Provident

Insurance Societies Act (5 of 1912). Respondent 1 was the managing director of the Bharathamatha Common, wealth Insurance Bank Ltd.,

Vizagapatam, and respondent 2 was the Secretary. Respondent 3 was the accountant and respondents 4 to 6 were directors. Respondent 7 was

the auditor and Exs. C and B, the revenue account and balance sheet for the period from 1st November 1934 to 31st December 1935, were

prepared by the Bank and audited by respondent 7. The revenue account was signed by respondents 1 to 5 and the balance sheet bears the

signatures of respondents 1 and 4 to 6. Both were signed by respondent 7 in token of his audit, and they were filed with the Registrar of Provident

Insurance Societies as required by Section 14 of the Act on 15th April 1936. They make it appear that the bank worked at a profit of Rs. 260-

11-8 and were printed and circulated to the share-holders of the Bank. There was in fact a deficit and the prosecution case is that in order to

conceal it from the share-holders the revenue account and balance sheet were manipulated. A sum of Rs. 15,000 was shown on the assets side of

the balance sheet as ""good-will"" and a like sum was included in Rupees 15,271-13-6 shown on the credit side of the revenue account under the head ""revival, annual fees and other items."" A sum of Rs. 13,986-4-9 was shown in the balance sheet as cash at branches though that amount had been spent by the branches before 31st December 1935 and a sum of Rs. 2350 payable to the managing agents towards remuneration was entered on both sides of the balance sheet. The statements were false to the knowledge of respondents 1 to 6 and they were certified to be correct by respondent 7.

2. The entry relating to the remuneration of the managing agent might have been made on both sides of the balance sheet under a mistaken notion as to the correct method of accounting, and it might be that the sum of Rs. 13,986-4-9 was shown as cash at branches since it so appeared in the books of the head office and the accounts submitted by the agents had not been passed. That such amounts have to be shown as branch or agents' balances was admitted by P.W. 3, the liquidator, and these statements cannot be said to be false to the knowledge of any of the respondents. But the inclusion of Rs. 15,000 in the revenue account under the head ""revival, annual fees and other items"" is patently false, and the explanation offered, viz. that by Ex. R-1, the resolution of 30th December 1935, a goodwill account was created by the directors for Rs. 15,000 out of the organization expenditure of Rs. 24,875-12-6 is neither acceptable nor helpful. The resolution does not advert to the organization expenditure and even otherwise the goodwill account must have been created in order to conceal the actual organization expenditure from the share-holders. The entry of Rupees 9875-12-6 under the head organization expenditure on the assets side of the balance sheet is otherwise inexplicable and such of the respondents as were aware of the true facts would be guilty u/s 22, Provident Insurance Societies Act. Respondent 2 entered service on 3rd January 1936 and respondent 3 became the accountant about that time. Under the circumstances it was not seriously contended that they knew or must have known the real facts, and the evidence of P.W. 5 shows that respondents 4 and 5 had no personal knowledge of the affairs of the company. Respondent 6 signed the balance sheet on the assurance of respondents 1 and 7, and there is no ground

for interference with the acquittal of respondents 2 to 6. But it is clear from the evidence that respondents 1 and 7 knew the real facts and they would be guilty u/s 22, Provident Insurance Societies Act, though they might have acted with the best of intentions. The acquittal of respondents 2 to 6 is therefore confirmed and the acquittal of respondents 1 and 7 is set aside. They are convicted u/s 22, Provident Insurance Societies Act, and having regard to all the circumstances, sentenced to pay a fine of Rs. 100 each with rigorous imprisonment in default for one month.