

(1896) 01 MAD CK 0003
In the Madras High Court

Queen-Empress

APPELLANT

Vs

Bhashyam Chetti

RESPONDENT

Date of Decision : 15-01-1896

Acts Referred:

Madras City Police Act, 1888 — Section 42, 47

Citation : (1896) ILR (Mad) 209

Hon'ble Judges : Shephard, J; Davies, J

Bench : Division Bench

Judgement

1. We cannot admit the affidavit of the petitioner which it is sought to use for the purpose of showing that he did not plead guilty. If there was any

mistake about the matter, it is the vakil and not the client who ought to have made an affidavit.

2. We cannot say that the sentence is excessive and must therefore dismiss the appeal.

3. With regard to the articles forfeited, it is argued that money and securities for money being specially mentioned in Section 42 of the Act cannot

be intended to be denoted by the term "articles" used in Section 47. In our opinion, however, the phrase ""all or any of the other articles seized"" is

large enough to cover money or securities for money when seized. The narrow construction which it is sought to put on Section 47 would have the

effect of making the seizure of money u/s 42 a useless ceremony.

4. It is then said that the Magistrate ought to have enquired as to whether the money and other things seized were used or intended to be used for

the purpose of gaming. Section 47, however, under which the Magistrate is empowered to order a forfeiture, does not require that he should make

any such enquiry. It is sufficient that the articles have, in fact, been seized by the Commissioner of Police under circumstances of reasonable suspicion entertained by him.

5. The Magistrate has a discretion in the matter, and, while he is entitled to presume that the action of the Police authorities has been regular, he

would, no doubt, not order a forfeiture in a case where he had reason to believe that the seizure had been irregularly made. In the present case

there does not appear to have been any ground for the Magistrate doubting the correctness or regularity of the proceedings of the Police. We must

dismiss the petition.