

(1891) 01 MAD CK 0003
In the Madras High Court

Queen-Empress

APPELLANT

Vs

Thandavarayudu

RESPONDENT

Date of Decision : 28-01-1891

Acts Referred:

Penal Code, 1860 (IPC) — Section 109, 290

Citation : (1891) ILR (Mad) 364

Hon'ble Judges : Wilkinson, J; Muttusami Ayyar, J

Bench : Division Bench

Judgement

1. The petitioner has been found guilty of abetting a public nuisance (Sections 290 and 109 of the Penal Code) in that he was the lessee of a house,

which he permitted to be used as a common gaming house; whereby nuisance, danger, and annoyance have been caused to the residents in the

neighbourhood.

2. The mere act of gambling in a private house is not per se a public nuisance (see Weir, page 146), but that is not the offence charged or found.

The evidence for the prosecution, which both the lower Courts considered reliable, went to show that the neighbours have been greatly annoyed

by the noise which the gamblers frequenting petitioner's house make, that the gamblers throw the ends of cheroots upon the houses, quarrel and

fight in the public street, and that people are afraid to go out at night or to pass the house for fear of being assaulted.

3. Although there is no evidence, that the petitioner did, as the Sub-Magistrate states, engage the house for the purpose of letting it out as a

gambling house, the evidence does warrant the finding that petitioner has permitted crowds of disorderly persons to make use of the house, both

by day and night, for gambling, and that his doing so has caused considerable annoyance to the public. It is a significant fact that the gambling and annoyance caused as soon as the present prosecution was instituted.

4. The absence of the petitioner from the town on a certain date will not exonerate him, as the nuisance is shown to have been continuous for some three months.

5. The conviction must be upheld and the petition dismissed.