

(1947) 11 MAD CK 0025
In the Madras High Court

Ramarathnam

APPELLANT

Vs

The Corporation of Madras

RESPONDENT

Date of Decision : 13-11-1947

Acts Referred:

Citation : AIR 1948 Mad 300 : (1948) 61 LW 436 : (1948) 1 MLJ 415

Hon'ble Judges : Yahya Ali, J

Bench : Division Bench

Judgement

Yahya Ali, J.—The petitioner has been convicted for having been in possession of machinery and for having used it for industrial purposes without a licence as required u/s 287 of the Madras City Municipal Act read with Schedule VI and sentenced to a fine of Rs. 25 u/s 357 of the Act read with Schedule VII. The question raised by Mr. Kasturi in attacking the validity of the conviction is that the particular instrument that was used in the present case was not machinery and that it was not used for industrial purposes.

2. The petitioner is a dealer in radio sets having his shop in Mount Road which is a D.C. area. He also executes repairs to radio sets of both A.C. and D.C. make. Since his shop is served by direct current he cannot test the A.C sets without the help of a converter; he is therefore using an electric converter for the purpose of converting D.C. current into A.G. to test A.C. sets. The question is whether an electric converter is machinery and whether the user of the converter for the purposes mentioned above is a user for industrial purposes. Ordinarily a machine is an instrument that transmits force or directs its application and machinery is nothing but a mechanism or a contrivance which performs the function of a machine. In that sense there can be no doubt that an electric converter which converts electrical power from A.G. to D.G. and vice versa is machinery within the meaning of the term in Schedule VI as it transmits electrical energy and directs its application. It may be also mentioned that in the Factories Act the word "machinery" is explained as including all plant whereby power is generated, transformed, transmitted or applied.

3. As regards the using of the converter for industrial purposes the expression " manufacturing process " has been defined in the Factories Act as " any process for making, altering, repairing, ornamenting, furnishing or packing, or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal". In the present case admittedly the electric converter is used for repairing the radio sets that are brought to the shop and also for otherwise treating them with a view to their use. The word " industry " itself is a very comprehensive expression and includes any department of business especially one which employs labour and capital. The mere fact that a concern is run on a small scale does not take away its industrial character. I find, for these reasons, that the petitioner was rightly convicted for having used machinery for industrial purposes without a licence as required under the Act. The fine is not excessive. The petition is dismissed.