
(1972) 01 MAD CK 0011

In the Madras High Court

Case No : Criminal Appeal No. 665 of 1970

State by Public Prosecutor

APPELLANT

Vs

Chandra-Kanthammal and Other

RESPONDENT

Date of Decision : 24-01-1972

Acts Referred:

Factories Act, 1948 — Section 2(m)(i), 6, 6(1)

Citation : (1972) LW(Cri) 68

Hon'ble Judges : K.N. Mudaliyar, J

Bench : Single Bench

Advocate : P. Rajamanickam, app, for the Appellant; N. Subramani and B.R. Ramesh Babu for M/s. P.M. Sundaram and A. Dhanuskodi, for the Respondent

Final Decision : Dismissed

Judgement

K.N. Mudaliyar, J.—This is an appeal filed by the State against the order of acquittal of Chandrakanthammal and Hamsavani Ammal of the

offence u/s 6(1) of the Factories Act, 1948 read with R. 3 (1) and (2) of the Madras Factories Rules, 1950. The accusation against them is that

they have failed to obtain previous permission in writing of the Chief Inspector of Factories, Madras for the installation of one treadle machine and

two paper cuttings machines in the factory by sending plans in triplicate showing the installation along with an application in Form No. 1 in triplicate

to the Chief Inspector of Factories, Madras.

2. The C. Varadarajulu Naidu Printing and Binding Office, situated at No. 239, South Marret Street, Madurai is undoubtedly a factory. According

to the testimony of P. W. 1 he was the superintending Inspector of Factories Madurai, upto 20th June, 1969. He States that the said Factory is a

factory u/s 2(m)(i) of the Factories Act. He also stated that accused 1 and 2 are

the occupiers of the said premises. The premises of the factory are licenced on 28th October, 1968. He speaks to the report of the Inspector of Factories as a result of his inspection on 27th January, 1969 marked Ex. P-2. P. W. 1 also inspected the Factory on 10th March, 1969 and found that one treadle machine and two cutting used machines were installed and these were being in the manufacturing process in the Factory. His grievance is that for the installation of the treadle machine and the cutting machines, prior approval of the Chief Inspector of Factories was not obtained as required u/s 6(1) read with R. 3 (1) and (2) of the Factories Act, 1948, and the Factories Rules 1950, respectively. Ex. P-5 is his inspection report. He states that these two accused did not send plans and papers for sanction from the Chief Inspector of Factories. He also deposed that the accused have sent plans in 1952 and 1965 and that in M.O. 1 and M.O. 2, the two plans, the installation of the treadle machine and the two cutting machines were not shown. It has been suggested to him that the machines had been installed even before the Factories Act was passed M.O. 3 is a plan approved by the Chief Inspector of Factories on 9th May, 1963. Even according to M.O. 3 the accused can instal one treadle machine with one H. P. motor and cylindrical printing machines with 2 H. P. Motor. His grievance is that the existing machinery is not shown in the plan M.O. 2. Therefore it is a violation of Sub-R. (3) of R. 3. He was unable to state when the printing press was started.

3. D. W. 1 is the Manager of C.V.N. press. He stated that the press was started in 1906 and that it is a partnership concern. It was registered in 1947. When the press was started there were one treadle machine and two cutting machines installed. In regard to the treadle machine and two cutting machines, the subject matter of the present prosecutions even in the year 1948 the inspection not would contain an averment to the effect that they were in existence then. This has been marked as Ex. D-1. That has been signed by the Inspecting Officer. For the alteration of the building plan in regard to increasing the height of the roof M.O. 2 is the revised plan sent for the approval of the Chief Inspector of Factories which was ultimately approved. There is no need for embodying the existing machines in the revised plan, M.O. 2. He speaks about the auditor's certificate about the old age of the machines. I am unable to see any material in

the cross examination of D.W. 1 to disbelieve the testimony of

D.W-1. A perusal of S. 6 of the Act would certainly show the provision for the replacement and addition of any plant or any machinery. There is

no difficulty in construing S. 6 with its explanation to state that there is certainly no need for the accused to obtain the approval of the Inspector of

Factories in the light of the contents of Explanation to S. 6 of the Act. It is unnecessary for me to consider the import of Rr. 3 (1), (2) and (3) in the

light of my construction of S. 6 of the Factories Act, 1948, and the application of Explanation to S. 6 to the facts of this case. Clearly there is no

contravention of S. 6(1) read with Rule 3 (1) and (2) of the Madras Factories Act, 1948, and the Madras Factories Rules, 1950 respectively. The

order of acquittal of the court below is proper and correct and thoroughly justified on the basis of the recorded evidence. The criminal appeal is

dismissed.