

(1970) 02 MAD CK 0011
In the Madras High Court
Case No : Criminal A. No. 694 of 1972

State Provident Fund Inspector, Tiruchi	APPELLANT
Vs	
Periannan	RESPONDENT

Date of Decision : 22-02-1970

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14(2)

Citation : (1972) LW(Cri) 222

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

Bench : Single Bench

Advocate : Habibullah Badsha, for the Appellant; Vedantham Srinivasan, for the Respondent

Judgement

K.N. Mudaliyar, J.—This is an appeal directed by the Provident Fund Commissioner, Tiruchirapalli, against the order of the Additional First

Crass Magistrate, Tiruchirapalli, acquitting N. Periannan of alleged contravention of S. 14(2) of the Employees Provident Funds Act and para 76

(a) read with para 33 (1) of the Provident Funds Act.

2. The accusation against the accused-Respondent is that for the period from October 1966 to December 1966 the accused failed to pay the

employees' share of contribution amounting to Rs. 321 and also that the accused-Respondent failed to pay administration charges amounting to

Rs. 9-45 for the above-said period and that the accused-Respondent also failed to submit the monthly returns within the due dates for the

abovesaid periods.

3. It is unnecessary for me to traverse all the facts proved by the evidence of P. Ws. 1,2, 3, 4 and 5. The said evidence has been elaborately dealt

with in the judgment of the trial court.

4. In order to contend that the accused, who is a lessee of the Prabhath Talkies, has employed 20 or more persons in the said Talkies, the learned

Counsel for the complainant-Appellant relied on the evidence of P.W. 3. His argument is that the evidence of P.W. 3 proves the establishment, viz,

the Prabhath Talkies, as one falling within the ambit of S. 1(3)(b) of the Employees Provident Funds Act, 1952. He relied on the evidence of P.W.

3 for sustaining his argument that the establishment, viz, the Prabhath Talkies would be subjected to the applicability of the Provident Funds Act.

The learned Counsel took me through the testimony of P.W. 3 who is the Assistant Inspector of Labour, IV circle, Tiruchirapalli. His evidence is

that during 1966 he was working at Tiruchirapalli. He visited the Prabhath Talkies and checked the registers. He endorsed his remarks in the visit

book Ex. P. 4. He also endorsed on 27th October 1965, 7th February 1965, 27th April 1965, 9th August 1965, 23rd November 1966 and 17th

August 1967. The learned Counsel relied on the averments found in the endorsements of P.W. 3 for basing his argument. I am afraid, the contents

of endorsements have not been proved by P.W. 3 by way of substantive evidence about the averments found in them. The proper proof of the

averments in Ex. P. 4 must be spoken to by the author of the statements or endorsements and he must give substantive evidence about the

averments in Ex. P. 4; otherwise, mere endorsements in Ex. P. 4 would not constitute substantive evidence in the case. Therefore, I am constrained

to remand the case back, so that P W. 3 may tender substantive evidence in respect of his endorsements found in Ex. P. 4. I am remanding this

matter without prejudice to the validity of the contentions that may be raised by and on behalf of the accused-respondent even in regard to the

maintainability of the complaints, in question. I set aside the order of acquittal and remand the entire matter to the court of the District Magistrate

(J.) Tiruchirapalli, for disposal according to law.