(1938) 03 MAD CK 0021

In the Madras High Court

The Public Prosecutor APPELLANT

Vs

M.S. Krishnamurthi Aiyar and Another RESPONDENT

Date of Decision : 04-03-1938

Acts Referred:
Lands Customs Act, 1924 — Section 7(1)(a), 7(1)(c)

Citation : AIR 1938 Mad 712 : (1938) 47 LW 576 : (1938) 1 MLJ 815

Hon'ble Judges : Burn, J

Bench : Division Bench

Judgement

Burn, J.—The respondents were tried in C.C. No. 823 of 1936 on the file of the Stationary. Sub-Magistrate, Mayavaram, for offences u/s

7(1)(a) and (c) of the Land Customs Act. The facts found against them by the learned Sub-Magistrate were that on the 16th November, 1936,

they were caught at Mayavaram Railway Station. They were both travelling in the train which arrived at Mayavaram at 11-5 P.M. from Tiruvalur.

The first respondent alighted from a carriage which runs through from Karaikal to Pondicherry carrying what is described as a ''rattan box''. The

second respondent alighted from the next carriage. They met upon the platform and the first respondent handed the rattan box to the second and

both were going together along the platform when they were detained by a Land Customs Sub-Inspector (P.W. 1). On examination the box was

found to contain twenty-five yards of silk shirting and 96 watches of Swiss manufacture. These had been smuggled in from Karaikkal by the first

respondent. On these facts the learned Sub-Magistrate found the first respondent guilty of an offence u/s 7(1)(a) and the second respondent guilty

u/s 7(1)(c) of the Land Customs Act. On appeal to the Sub-divisional Magistrate of Mayavaram the learned Sub-divisional Magistrate confirmed the findings of fact recorded by the learned Sub-Magistrate but held that the complaint was invalid and therefore reversed the convictions and the

sentences, observing that the authorities might, if they thought-fit, file a fresh complaint satisfying the requirements. The learned Sub-divisional

Magistrate thought that the Sub-Inspector of Land Customs was not competent to prefer a complaint u/s 7(2) because the Sub-Inspector was not

competent to adjudicate upon the value of goods exceeding Rs. 50. For this purpose he referred to certain sections of the Sea Customs Act. This

appeal has been preferred by the Local Government from the acquittal by the learned Sub-divisional Magistrate.

2. The learned Public Prosecutor points out that the Governor-General in Council in exercise of the powers conferred by Section 3(1) of the Land

Customs Act has appointed ""all...Sub-Inspectors of Customs to be Land Customs Officers..."" (Vide Notification of the Government of India No.

5942, dated 13th December, 1924.) The Sub-Inspector of Customs (P.W. 1) was therefore a Land Customs Officer and u/s 7(2) of the Land

Customs Act a Land Customs Officer is competent to make a complaint to a Magistrate. Learned Counsel appearing for the respondents agrees

that the learned Sub-divisional Magistrate was wrong in holding that the Sub-Inspector was not competent to prefer a complaint. He has discussed

only the question of punishment. The watches were confiscated and it is suggested that a penalty might be imposed instead of imprisonment. It is

however to be observed that this is not a trivial case of smuggling but is apparently a case in which a deliberate attempt has been made to violate

the tariff law for the purposes of business. That being so, I am not prepared to say that the sentences of three months'' rigorous imprisonment

passed upon the first respondent by the Sub-Magistrate and of two months rigorous imprisonment passed upon the second respondent are

excessive.

3. Setting aside the order of acquittal passed by the learned Sub-divisional Magistrate, I restore the convictions passed by the learned Sub-

Magistrate and the sentences imposed by him.

