

(1960) 08 KL CK 0055

High Court Of Kerala

Case No: Criminal R. P. No. 110 of 959

Balan

APPELLANT

Vs

Secretary, Malabar Market
Committee, Kozhikode

RESPONDENT

Date of Decision: Aug. 31, 1960

Citation: (1961) KLJ 227

Hon'ble Judges: Anna Chandy, J

Bench: Single Bench

Advocate: T.L. Viswanatha Iyer, for the Appellant; V. Balakrishna Eradi and K.P.G. Menon, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Anna Chandy, J.

This revision petition by the accused is against his conviction u/s 5 read with Section 17 of the Madras Commercial Crops Markets Act, 1933 and sentence of a fine of Rs. 50/- by the Additional first Class Magistrate (Judicial), Kozhikode. The charge against the accused was that he being the lessee of the Devi Vilas Oil Mills, Kozhikode used his premises for the purchase, sale, storage, weighment, pressing and processing of coconut oil and its products which is a notified commercial crop without a license for the same.

2. The accused did not dispute the charge against him but contended that the Secretary of the Areca nut Market Committee who is the complainant in the case was not competent to file the complaint since he has not been authorized by name. That contention which was repelled by the learned Magistrate is again urged before this Court.

3. The relevant provision contained in Section 20(2) of the Act reads as follows:-

Prosecutions under this Act may be instituted by any person duly authorized in writing by the Market Committee in this behalf.

The Bye-Laws passed in exercise of the powers conferred by Section 19 of the Act further clarifies the matter. Bye-law 30(2) states that :

It is open to the Committee to authorize either the Chairman or the Secretary to launch prosecution.

Neither in the Act nor in the Bye-law is there any provision or indication that the authorization should be by name. Either the Chairman or the Secretary of the Society could launch a prosecution if they are authorized by the Committee by a resolution either by a general or special order. Ext. P. 7 is the true copy of the proceedings of the Malabar Market Committee held at the Committee Office on 19-14-1951 which authorized the Secretary to launch prosecution as and when necessary. That authorization is in conformity with Section 20(2) and bye-law 30(2).

4. A similar provision contained in the U. P. Municipalities Act, namely, "some person authorized by the Board" came up for consideration in AIR 1941 472 (Oudh) and it was held that some person authorized by the Board does not necessarily mean that the person authorized must be mentioned, by name and those words are comprehensive enough to delegate power to an officer of the Municipal Board by virtue of his office as well. There is no merit in this revision petition and it is dismissed.