

## C.S. Mani Vs Vijaya Pillai

**Court:** Madras High Court

**Date of Decision:** Dec. 6, 1963

**Acts Referred:** Penal Code, 1860 (IPC) â€” Section 425, 426  
Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 â€” Section 17(1), 33(1)

**Citation:** (1964) ILR (Mad) 357

**Hon'ble Judges:** Anantanarayanan, J

**Bench:** Single Bench

**Advocate:** N. Krishnaswami Reddi, Public Prosecutor, N.S. Raghavan, for the Appellant; A.P. Unnikrishnan, for the Respondent

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

Anantanarayanan, J.

It appears to me to be very clear that, upon the very facts as found by the learned Special Honorary Presidency

Magistrate in Criminal Case No. 5283 of 1962, the conviction of the revision Petitioner (accused) of an offence u/s 426, Indian Penal Code, is not

sustainable in law, and will have to be set aside. In view of the narrow ground upon which the propriety of the conviction has been assailed, I

desire to say nothing, in this context, upon the protracted history of the prior relationship between this landlord (revision Petitioner) and his tenants,

one of whom is the Respondent. It may be, as the learned Magistrate observes, that the conduct of the landlord (revision Petitioner) in respect of

his tenants has been illegal, vindictive and oppressive. But the fact remains, that if a landlord fails to pay electricity dues, even assuming that the

failure is deliberate, and thereby causes a situation in which the Madras Electricity Supply Corporation is constrained to cut off electricity supply to

the tenants for non-payment of such dues, the landlord would certainly not be committing mischief as defined in Section 425, Indian Penal Code.

He may be committing a tort or civil wrong. He may also be contravening the explicit provisions of Section 17(1) of the Madras Buildings (Lease

and Rent Control) Act, 1960. The tenant is not at all without redress, in this regard, as u/s 33(1) of the Act, a contravention of Section 17(1) is

punishable by a fine which can be very heavy. But, the act of the Madras Electricity Supply Corporation in cutting off the electricity supply is

certainly not an act of destruction to property, or causing illegal change in the property, as the Corporation has a right to cut off supply for non-

payment of dues. Thus, the landlord cannot even be convicted of abetment of mischief committed by another, nor, on the facts, can it be claimed

for a moment that the landlord directly committed mischief.

2. The learned Public Prosecutor concedes that the situation would be that which I have outlined above, and does not seek to defend the

conviction. Accordingly the conviction and sentence are both set aside and the revision is allowed. The fine, if paid, must be refunded.