

Achammagari Venkata Reddy Vs The State

Court: Madras High Court

Date of Decision: July 23, 1952

Acts Referred: Penal Code, 1860 (IPC) â€” Section 268

Citation: AIR 1953 Mad 242 : (1952) 2 MLJ 554

Hon'ble Judges: Ramaswami, J

Bench: Single Bench

Advocate: P. Basi Reddi and I. Baliah, for the Appellant; The Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ramaswami, J.

The short point for determination in this revision is whether the act attributed to the accused amounted to a public nuisance.

2. The word "nuisance" has been defined by Stephen to be anything done to the hurt or annoyance of the lands, tenements, or hereditaments of

another and not amounting to trespass. (Stephen, III, 499). The word "nuisance" is derived from the French word "nuire", to do hurt or to annoy.

Blackstone describes (no cumentum) as something that "worketh hurt, inconvenience or damage". The offence of public nuisance may thus be

analysed (i) it may be caused either by an act or illegal omission (ii) the effect thereof must be either injury, danger or annoyance (iii) actually

caused either to the public or to that portion of the public who dwell or occupy property in the vicinity or (iv) threatened of necessity to persons

who may have occasion to use any public right.

3. Bearing these principles in mind, let us examine what the accused did. The accusation is that on 2-6-1950, the petitioner before us raised the

level of the public ratha in front of his northern house and also constructed a cross bund across the ratha at the boundary between the two

houses with the result that the flow of rain-water northernwards through the ratha was impeded, if not completely obstructed and the water began

to stagnate in the ratha in front of the southern house, causing annoyance to the complainant and the other residents of the village entitled to use

the ratha.

4. These facts proved through P. Ws. 1 to 4 and whose evidence was not seriously contradicted by the three D. Ws., establish the acts of the

accused, viz., raising the level and cross-bunding and the result therefrom namely stagnation of water leading to breeding of mosquitoes etc., and

giving rise to offensive smell and causing to the persons living in the vicinity danger to their health and annoyance and threatening also such injury

and annoyance to the persons who would of necessity be compelled to use that part of the rasta.

5. Therefore a clear case of public nuisance having been made out, there are no merits in this revision petition and it is hereby dismissed.