

## APPELLATE CRIMINAL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice,  
and Mr. Justice Handley.*

QUEEN-EMPRESS

v.

RAMANUJAM.\*

1889.  
December 13.

*Opium Act—Act I of 1878, s. 3—License to possess opium—Transport of opium.*

One having a license for the possession of opium as a medical practitioner, limited to eight pollums of opium, sent his servant to buy from a licensed dealer at Sholavaram and bring to Madras four pollums of opium; he was convicted of the offence of transporting opium without a license:

*Held*, the conviction was right.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, praying the High Court to revise the finding and sentence of the Presidency Magistrate, Madras, in calendar case No. 17595 of 1889.

*Jagaran Pillai and Nadamuni Chetti* for the accused.

*Mr. Grant* (the Crown Prosecutor) for the Crown.

The facts of this case appear sufficiently for the purposes of this report from the judgment of the Court.

JUDGMENT.—The facts proved and admitted by the accused are that in June last the accused, who carries on business as a chemist and druggist in Madras under the name of Le Febour and Co., sent his servant, the first prosecution witness, to Sholavaram in the Ponneri Taluk of the Chingleput District, to buy four pollums of opium from one Sathur Khan, a licensed vendor of opium. The first witness accordingly went to Sholavaram, purchased the opium, and brought it to accused at Madras. Accused has a license from the Collector, under Rule VI of the rules framed by the local Government under the Act, for the possession of opium as a medical practitioner. The quantity of opium which he may have in his possession under such a license at one time is limited by Rule VI to one seer, equal to eight pollums. The license is not before us; but, assuming it to be in the form given in the

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rules, it does not authorize accused to transport opium, unless such authorization can be implied from the 'license to possess. Section 3 of the Opium Act I of 1878 absolutely prohibits the transport of opium, which is defined to mean the moving it from one place to another, except in the manner prescribed by the Act, and the only provisions under the Act allowing transport are contained in Rules VIII to XIII, which only apply to licensed importers, farmers, and licensed vendors, under none of which classes does accused come.

By sending his servant to bring opium from Sholavaram to Madras accused was clearly transporting opium within the meaning of the Act. Except under the provisions of Rules VIII to XIII such transport is illegal, and the license he holds does not authorize it expressly or impliedly.

Whether if accused had carried the opium himself the license to possess the opium would necessarily imply a right to transport it with him and so over-ride the prohibition of transport is a question which does not arise in this case and which we need not therefore determine.

The conviction was right and the petition is dismissed.

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## APPELLATE CIVIL.

*Before Mr. Justice Muttusami Ayyar and Mr. Justice Shephard.*

SINGJEE (PLAINTIFF), APPELLANT,

v.

TIRUVENGADAM AND ANOTHER (DEFENDANTS), RESPONDENTS.\*

*Transfer of Property Act (Act IV of 1882), ss. 65, 68—Mortgagor and mortgagee—Construction of mortgage—Sale of premises at suit of a prior mortgagee—Right of a second mortgagee to sue the mortgagor personally.*

The defendants, having already mortgaged certain land to another, executed a hypothecation bond comprising the same land in favor of the plaintiff to secure a debt due by them to the plaintiff and covenanted therein to pay to him daily the proceeds of certain sales of firewood, of which the plaintiff was to credit part towards the secured debt. The defendants having failed to pay the amount due on the first mortgage, the first mortgagee obtained a decree and brought the land to sale. The plaintiff now brought a suit in the Small Cause Court to recover the amount due on footing of his hypothecation bond :

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\* Letters Patent Appeal No. 13 of 1888.