

AHMED KOYA
v.
AISAMMA.
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The law applicable to the islands is to be found in Regulation 1 of 1912 (The Laccadive Islands and Minicoy Regulation). Section 3 provides that :

“ This Regulation, the Madras State Prisoners Regulation, 1819, the State Prisoners Act, 1858, and the Scheduled Districts Act, 1874, shall be the only enactments in force in the islands.”

The Laws Local Extent Act (XV of 1874) is not referred to and therefore is not in force. Nor has any notification been issued under Act XIV of 1874 applying the Limitation Act to the islands. This being so, the whole basis of Mr. Padmanabha Pillai's argument disappears. It follows that the Limitation Act does not apply to Laccadive Islands and that the law of limitation applicable to them must be looked for in Regulation 1 of 1912. Section 17 read with section 27 provides that appeals shall ordinarily be filed within six months, from which the period of the south-west monsoon (June to September inclusive) is to be excluded. That period we have no power to extend. The application fails and is dismissed with costs.

K.R.

APPELLATE CRIMINAL.

Before Mr. Justice Devadoss and Mr. Justice Waller.

THE PUBLIC PROSECUTOR (APPELLANT)

1925,
December 17.

v.

THANIYA (ACCUSED).*

*Madras Planters' Labour Act (I of 1903) ss. 4, 7, 30 and 42—
Breach of rules framed under Act—Contract of labour not
containing descriptive marks of labourer, invalidity of—
Illegality of conviction for desertion.*

The conviction of a labourer under section 30 of the Madras Planters' Labour Act (I of 1903) for desertion is illegal if the

* Criminal Appeals Nos. 339 and 340 of 1925.

contract of labour does not contain the particulars required by the rules framed under the Act (e.g.) descriptive marks of the labourer.

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APPEALS under section 417 of the Code of Criminal Procedure, 1898, against the acquittal of the accused by the Subdivisional Magistrate of Tellicherry in Criminal Appeals Nos. 13 and 12 of 1925 on his file preferred against the judgments of the Court of the Second-class Magistrate of Vayitri in Calendar Case Nos. 836 and 830 of 1924.

The facts are given in the judgment.

Public Prosecutor (J. C. Adam) for appellant.

T. A. Ananta Ayyar for respondent.

Section 4 (1) of the Madras Planters' Labour Act is as follows :—

“ Every contract between a planter and a maistri, and every labour contract shall be in writing and shall be in such form and shall contain such particulars as the Local Government may by rules made under this Act direct, and every labour contract shall be signed in the presence of a magistrate or of some other person expressly authorized by the Local Government by name or in virtue of his office.”

Section 7—“ No contract made otherwise than in accordance with the provisions of section 4 shall be enforceable under this Act as a labour contract against the labourer entering into it.”

Section 30 (1)—“ Every labourer who deserts from an estate upon which he has contracted to work, or without reasonable cause fails to present himself on the estate at the time specified in his contract, shall be punishable with imprisonment for a term which may extend to one month or with fine not exceeding fifty rupees, or with both.”

Rule 2 (4) framed under the Act required that the contract with the labourer should contain “ the labourer's native place (village, taluk and district), caste, age, and descriptive marks.”

The JUDGMENT of the lower appellate Court was as follows :—

1. “ The appellant Guruva, son of Babbu, was convicted of an offence punishable under section 30 of the Madras Planters' Labour Act.

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2. Rule 2 of the rules framed under section 4 of the Act says that every labour contract should contain the labourer's descriptive marks. In the contract executed by the appellant no such marks have been noted. The contract is thus one made otherwise than in accordance with the provisions of section 4 and section 7 therefore makes it 'not enforceable.' The conviction based as it is on this invalid contract, cannot stand. I allow the appeal and acquit the appellant."

JUDGMENT.

DEVADOSS, J. — This is an appeal by the Public Prosecutor against the decision of the Subdivisional Magistrate of Tellicherry who quashed the conviction of the accused by the Second-class Magistrate of Vayitri under section 30 of the Madras Planters' Labour Act, I of 1903, on the ground that the contract executed by the appellant did not contain his descriptive marks as required by law. The contention of the Public Prosecutor is that the omission to mention the descriptive marks of the accused was not a wilful omission but an oversight and that omission should not be held to invalidate the contract. The question is whether the omission to enter any particulars required by the rules vitiates the contract or makes it unenforceable under the Act. The argument of the Public Prosecutor is that the omission to give the descriptive marks of a labourer is such a negligible thing that it cannot be held to invalidate a contract. He argues "could it be said that a person, who has no descriptive marks or is unable to give his father's name as required by the rules cannot enter into a contract of this kind." The Governor in Council has framed rules under sections 4, 13 and 42 of the Planters' Labour Act of 1903. Rule 2 (4) is in these terms—

"Labourer's native place (village, taluk and district) caste, age, and descriptive marks,"

and section 4 says :

“ Every contract between a planter and a maistri and every labour contract shall be in writing and shall be in such form and shall contain such particulars as the local Government may by rules made under this Act direct.”

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The question is whether the non-compliance with any of these rules as to particulars vitiates the contract? In the contract form there is a column for descriptive marks. That column has not been filled in. It is unnecessary to enquire, for the purpose of this case, whether the accused has any descriptive marks or not. What we are concerned with is to see whether the rules have been complied with. The argument that it is not necessary to fill up one of the columns required to be filled up under the rules, either because the column cannot be filled up or it is not necessary to fill it up because of its minor importance does not commend itself to me. The Madras Planters' Labour Act of 1903 is an exceptional piece of legislation. It converts the civil liability into the criminal liability of a labourer and subjects him to imprisonment for one month with or without fine. When the legislature enacts that in order to give validity to a contract certain formalities should be complied with, it is not for the Court to say whether any of the formalities is necessary or not. It may be as the Public Prosecutor argues that if a person has no descriptive marks, or if he is not able to give his father's name, the contract cannot be executed. But where, owing to wilful omission or carelessness, the columns are not filled up, it cannot be said that one of the particulars required by the rules is not of such importance as to make the contract invalid. The rules require that the labourer's native place, village, taluk and district, caste, age and descriptive marks should be given. If a labour contract does not contain the name, caste, or age of the labourer,

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can we hold that the contract is a valid one? Whatever may be the reason for the legislature requiring such particulars, it is not for the Court to enquire into the reasonableness of it. When the legislature, for reasons best known to itself, requires certain formalities to be gone through, or certain formalities to be observed, in order to make a contract valid, or when it requires certain descriptive marks or particulars to be given in a contract to make it valid, the Court cannot consider any one of the terms or requisites as of no importance. I think the descriptive marks of a labourer are as important as his name and caste and therefore the omission to give descriptive marks makes the contract unenforceable. It is not suggested that these rules have not got the force of law. Such a contention would be on the face of it untenable, for the rules are framed under sections 4, 13 and 12 of the Act. In the Assam Labour Act, Act VI 1901, the form to be filled in is made part of the Act itself, and the Madras Act is evidently based upon the Assam Labour Act and it cannot be said that the Madras Legislature has required certain particulars to be given in the form without due consideration. When a similar enactment in another province requires the descriptive marks to be given in the contract, we may take it that it is for good reasons that the legislature required them.

The legislature does require certain formalities for the validity of certain contracts. For instance in the case of statutory bodies no contract which is not under seal is valid. Even if a statutory body has acted on such a contract, yet, when that contract is sought to be enforced in a Court of law, it cannot be enforced if it is not under seal. The law requires certain documents to be attested and such documents may be proved only by proving attestation. The Courts are bound to give effect to the law as they find it and not to consider whether

a certain formality is essential or non-essential. It is urged that a good many contracts might be declared invalid if such a literal construction of the rules is to prevail; but it is not the function of the Court to consider what effect the decision will have. The duty of a Court is to interpret and apply a statute as it finds it, and no provision of law should be considered unnecessary or immaterial. The labourer is as much entitled to protection as the planter. Labourers are mostly ignorant people and the protection given under the Act should not be lightly taken away. The legislature evidently in order to prevent unscrupulous maistris and others inducing labourers to enter into contracts which might afterwards be found irksome to them, requires that certain formalities should be gone through and certain particulars should be entered in the contract to safeguard them and to prevent them from escaping the consequences of the non-fulfilment of the contract by pleading that they are not the persons who signed the contract. The Act takes the precaution to see that everything is done above board and to the knowledge of the labourer. For instance, it lays upon the Magistrates or other persons before whom such labour contracts are signed, a duty to see that the terms are fully explained to and are understood by the parties. In the face of the considered policy of the Act and the clear terms of sections 4 and 7 it cannot be said that the Subdivisional Magistrate was wrong in setting aside the conviction of the accused on the ground that the descriptive marks were not given in the contract.

I therefore decline to interfere with the order of the Magistrate and dismiss this appeal.

WALLER, J.—I agree that the appeals must be dismissed. The rule framed under section 4 of the Act requires that, among other particulars, the descriptive

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marks of the labourer shall be entered in the contract. In these cases, no such marks have been entered. In fact, no attempt has been made to comply with the rule. It is not asserted that respondents have no descriptive marks and I infer from Mr. Adam's admission that a large number of similar contracts may be affected by our decision, and that the rule has been habitually ignored. There is, of course, in neither case any dispute as to the identity of the labourer, but that is not to the point. In order that the contract may be enforceable under the Act the law requires that certain things shall be entered into it. If they are omitted the contract cannot be enforced.

N.R.

APPELLATE CRIMINAL.

Before Mr. Justice Krishnan.

1925,
November 18

THE PUBLIC PROSECUTOR, (APPELLANT)

v.

KALIA PERUMAL NAICKER, (ACCUSED).*

Sec. 249 and clause (o) of Schedule V of Madras District Municipalities Act (IV of 1920)—Commission agent selling wholesale grains of others, without licence—Liability to take licence.

Under section 249 of the Madras District Municipalities Act (IV of 1920) read with Schedule V, clause (o), any person who sells grain wholesale has to obtain licence and if he fails to do so he is liable to be punished under section 338 of the Act.

Held that a person who is not a mere crier or auctioneer who auctions the goods of others in their presence, but sells, for commission, on his own account, by auctioning wholesale in his premises the grain sent to him by others, comes within clause (o) of Schedule V of the Act.

* Criminal Appeal No. 386 of 1925.