

APPELLATE CRIMINAL.

Before Mr. Justice Jackson.

THE PUBLIC PROSECUTOR, APPELLANT,

v.

K. SAIDALI KUTTI AND SONS, ACCUSED.*

1927,
January 7.

*Madras Local Boards Act (XIV of 1920), Sch. VII, cl. (c)—
“Storing or otherwise dealing with”—Forwarding agent
—Collection of packages of fish—Kept in shed or godown
with a view to consignment—If comes within mischief of
Sch. VII, cl (c).*

A forwarding agent, who collects packages of fish and keeps them in a shed or a godown for a day or two with a view to their subsequent consignment elsewhere, is “storing or otherwise dealing with” fish within the meaning of Schedule VII, clause (c) of the Madras Local Boards Act. The shortness or otherwise of the period does not affect the question.

A man who handles goods in any way is dealing with them, and storing for private purposes apart from trade is “dealing with.” *Emperor v. Wallace Flour Mill Co.*, (1905) I.L.R., 29 Bom., 193. *N. E. Ry. Co. v. Mayor, etc. of Kingston-upon-Hull*, (1891) 55 J.P., 518, referred to.

APPEAL under section 417 of the Code of Criminal Procedure, 1898, against the acquittal of the accused by the Sub-Magistrate of Tirur in Calendar Case No. 163 of 1926.

Public Prosecutor for the Crown.

P. Govinda Menon for accused.

JUDGMENT.

Appeal by Government against acquittal of accused in Calendar Case No. 163 of 1926 on the file of the Court of the Sub-Magistrate of Tirur. Accused was prosecuted by the Ponnani Taluk Board for failure to take out licence under Schedule VII(c), Madras Act XIV

* Criminal Appeal No. 507 of 1926.

of 1920 for a shed in which he stored or otherwise dealt with fish. Accused is admittedly a forwarding agent who collects packages of fish and consigns them elsewhere. A day or two may elapse before consignment when accused keeps the fish in a rented shed. Is this storing or otherwise dealing with? The Sub-Magistrate answers the question in the negative without any argument. The case is not parallel with that in *Emperor v. Wallace Flour Mill Company*(1) where it was held that oil stored for the lubrication of a machine on the premises was not stored within the mischief of section 394, City of Bombay Municipal Act. When goods are kept in a shed or godown with a view to their subsequent consignment is the best illustration of storage proper. Nor does the shortness of the period affect the question. In a business like accused's one package may only be stored a couple of nights, but it is succeeded by other packages, and the storing is practically continuous.

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The phrase "dealing with" which must not be confounded with "dealing in" makes the clause even wider. A man who handles goods in any way is dealing with them, and storing for private purposes apart from trade is 'dealing with.' See *N.E.Ry. Co. v. Mayor, etc. of Kingston-upon-Hull*(2) quoted in Stroud's Judicial Dictionary. Coals for the owner's own use were "dealt with."

In these circumstances the order of acquittal is set aside and accused is found guilty under sections 193 and 207 of Madras Act XIV of 1920 and sentenced to a fine of rupees five, in default, one week's rigorous imprisonment.

B.C.S.

(1) (1905) I.L.R., 29 Bom., 193.

(2) (1891) 55 J.P., 518.