

APPELLATE CRIMINAL.

*Before Mr. Justice Wallace and Mr. Justice
Madhavan Nayar.*

C. M. PEDDA MALLA REDDI AND B. C. MALLA REDDI,
PETITIONERS (ACCUSED),

1926,
September 8.

v.

KING-EMPEROR (RESPONDENT).*

*Indian Penal Code, sec. 294 (a)—“Goods”—Immovable
property—If included in.*

The term “goods” in section 294 (a) of the Indian Penal Code includes both movable and immovable property.

The publication of an advertisement of a lottery by which the lucky winner would get a factory for less than its real value is an offence under section 294 (a) of the Indian Penal Code. 8 George I, Chapter II, section 36 and 12 George II, Chapter XXVIII, section 1, referred to.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of Sessions of Cuddapah in Criminal Appeal No. 39 of 1925 preferred against the judgment of the Court of the First-class Deputy Magistrate of Jammalamadugu in Calendar Case No. 70 of 1925.

The two appellants were owners of a ginning and groundnut decorticating factory. They put in a petition to the Collector of the district requesting sanction for the disposal of the factory by means of a lottery. The Collector informed the appellants that there was no provision of law under which he could sanction the holding of lotteries and that it was for the promoters to see that they did not offend against the law. In spite

* Criminal Revision Case No. 760 of 1925.

MALLA REDDI
v.
KING-
EMPEROR.

of this, advertisements about the holding of the lottery were published in two Madras dailies for a period of about five and a half months stating *inter alia* that the lottery was for Rs. 52,500 and that there were 10,500 tickets of Rs. 5 each. Handbills also were distributed in connexion with the same. In an advertisement appearing on a certain day it was stated that the lottery was being held after obtaining the permission of Government. In later advertisements it was stated that the factory was being sold after reference to Government. A similar recital was also to be found in the handbills. The reference to Government in all these advertisements and handbills was to the endorsement of the Collector. The appellants later on applied to Government for sanction to hold the lottery and Government refused the sanction sought for. Subsequently advertisements appeared in the dailies referred to above that the lottery was suspended owing to Police interference. A few weeks later Government sanctioned the prosecution of the appellants under section 294-A of the Indian Penal Code.

V. L. Ethiraj and *M. C. Sridharan* for petitioners.

Public Prosecutor for the Crown.

JUDGMENT.

The chief question for decision in this case is whether the act of the appellants, viz., publishing an advertisement of a Rs. 52,500 lottery, by which a ginning factory was to be raffled at Rs. 5 tickets, is an offence within section 294-A of the Indian Penal Code. The argument is that "goods" in the section applies only to movables, and that if the Legislature had intended to include immovable property, it would have said so in appropriate words. We are not able to accept this

contention. The idea of the lottery was that the lucky winner should get the factory for less than its real value, viz., for the actual sum he paid for his tickets, which would undoubtedly be for his "benefit." The proposal therefore was to do something "for the benefit of any person." There seems no reason, short of complete oversight, why a lottery for movable goods should be an offence and a lottery for immovable goods not an offence. The general clause was evidently regarded as sufficient to cover the latter case. The Public Prosecutor has called our attention to the wording of the English Acts, still in force, 8 George I, Chapter II, section 36 and 12 George II, Chapter XXVIII, section 1, both of which enact that a lottery for "lands" is an offence. We think there is no substance in this contention.

MALLA REDDI
V.
KING-
EMPEROR.

The next argument is that there is no case proved against the first appellant. The lower courts have found as a fact that he took part in the publication, and we cannot say that there is no evidence on which they could do so. It is quite clear that the first appellant's name was throughout associated with the lottery. We reject this contention also.

It is finally urged that the sentence is heavy. We agree with this. All that was called for in the circumstances was a vindication of the law. The lottery was not held and no one is the worse for the publication. We reduce the fine to a fine on each appellant of Rs. 100 (rupees one hundred). The balance, if paid, should be refunded.

B.C.S.
