

T.S. Baliah v. T.S. Rengachari

Criminal Appeal No. 130 of 1968 / Criminal Appeal No. 131 of 1968 / Criminal Appeal No. 132 of 1968 / Criminal Appeal No. 133 of 1968

[1969] 3 SCR 65 | 1968-12-12

Did repeal and section 297 prevent old-Act prosecutions; could section 52 and IPC section 177 coexist; was an authorised complaint sufficient; and what remained of the objection based on penalties already imposed under section 28?

297(1) | 297(2) | 277 (fourth complaint; no separate detailed ingredients ruling)

Three judges | J.C. Shah, J. | V. Ramaswami, J. | A.N. Grover, J.

Assessment years: 1958-59, 1959-60, 1960-61, 1961-62

Saved old-Act prosecutions, subject-specific savings and an unresolved defence

All four appeals were dismissed subject to Baliah's right to raise the section 28(4) same-facts prior-penalty bar before the trial Magistrate. No conviction or final rejection of that defence was made. Section 297 does not displace General Clauses Act section 6 on every subject; contrary detailed savings still control. Section 26 permits dual prosecution but bars punishment twice for the same offence. Tiwari later separates new-Act civil penalties from saved old offences and their punishment limits; it does not decide Baliah's trial facts. Later section 277/279 wording and safeguards differ. Original PDF unchanged; the headnote section 22 is an error for the judicial section 52; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The appellant, cinema actor T.S. Baliah, was assessed for assessment years 1958-59, 1959-60 and 1960-61, and the judgment records that penalties under section 28 of the 1922 Act were imposed for those years. For assessment year 1961-62 a show-cause notice concerning penalty had been issued. Four complaints were filed before the Chief Presidency Magistrate, Egmore, Madras: the first three, authorised by the Inspecting Assistant Commissioner, alleged offences under section 52 of the 1922 Act and section 177 of the Indian Penal Code; the fourth, at the instance of the Commissioner, alleged section 277 of the 1961 Act and IPC section 177 (physical 2-3/SCR 66 G-67 B).

The complaints alleged knowingly false verifications and deliberate suppression of income to evade tax. Those were allegations, not findings of criminal guilt. Baliah sought preliminary determination of the legality of trial for both offences. On 22 May 1967 the Magistrate declined to determine the points at that stage, leaving them for trial. The Madras High Court dismissed Criminal Revision Cases 645-648 of 1967 on 14 February 1968; all four special-leave appeals came before the Supreme Court (physical 3/SCR 67 B-F).

Baliah argued that the special tax offence had impliedly repealed the general IPC offence. He also challenged survival of old-Act prosecution after the 1961 repeal, prosecution under both enactments, the authority to lodge the complaints and compliance with Article 14. He also relied on the earlier section 28 penalties as a bar under section 28(4). Although the source records their imposition, the material needed to decide that last same-facts objection was not sufficient before the Supreme Court (physical 4-10/SCR 68-74).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The special tax offence did not impliedly repeal IPC section 177. Repeal by implication requires inconsistency or repugnancy preventing both provisions from standing together. The Court considered the differences raised by counsel, including compounding, the authority for initiating prosecution, competent trial courts and the section 28(4) bar. Those differences did not make the provisions irreconcilable: section 52 supplied an additional statutory route, and the two enactments were cumulative in the circumstances before the Court (physical 4-6/SCR 68 E-70 B).

The Court separately addressed express repeal of the 1922 Act. Section 297(2) did not contain detailed provision for institution of prosecutions concerning the old proceedings. General Clauses Act section 6 preserves accrued liabilities, punishment and connected proceedings unless the new enactment discloses a different intention. The question is whether the new law manifests an intention to destroy them, not whether it expressly repeats every saving. Examining section 297(2), the Court found no such contrary intention for these prosecutions and held that a proceeding for an offence committed under the 1922 Act could be instituted after repeal, with punishment as if that repeal had not occurred (physical 6-8/SCR 70 C-72 D).

That holding is subject-specific. The broad language in *Kalawati Devi Harlalka* about section 6 not applying was read in light of *Damodar Bhat*: section 6 is displaced in matters for which Parliament has expressed a contrary intention through detailed provisions. It is not excluded from every subject merely because section 297 contains a saving scheme. Conversely, *Baliah* does not make section 6 override contrary detailed savings in section 297 (physical 8/SCR 72 A-D).

Section 26 of the General Clauses Act did not prohibit trial or conviction under both enactments. Its protection is against being punished twice for the same offence. The Court rejected the asserted bar to dual prosecution; it did not authorise duplicate punishment, decide guilt or hold that every statutory offence sharing facts is necessarily the same offence (physical 8-9/SCR 72 E-73 A).

Section 53 required proceedings at the instance of the Inspecting Assistant Commissioner, meaning on his authority, rather than requiring him personally to file the complaint. It was undisputed that the respondent had that authority for the old-Act complaints. The Article 14 challenge to prosecutorial choice also failed: the specially constituted tax offence was subject to the sanction requirement and the statutory restriction connected with an earlier section 28 penalty, which the Court treated as sufficient safeguards (physical 9/SCR 73 B-G).

The earlier-penalty objection was not rejected on its facts. Section 28(4) barred prosecution for an offence against the 1922 Act in respect of the same facts on which a penalty had been imposed under that section. The Court lacked sufficient material to determine its application and expressly left the point open for *Baliah* to urge before the trying Magistrate at commencement of trial. That reservation qualifies dismissal of the appeals and the otherwise

02 DISCUSSION BY THE HON'BLE COURT

successful answers to his general legal objections (physical 9-10/SCR 73 G-74 B).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

All four appeals, Criminal Appeals 130-133 of 1968, were dismissed subject to the express reservation that Baliah could urge the section 28(4) prior-penalty objection before the trying Magistrate at the commencement of trial. Repeal, the coexistence of section 52 and IPC section 177, authorised filing and Article 14 did not establish the asserted general bars. No guilt, sentence or final rejection of the reserved same-facts penalty bar was decided. The judgment gives no costs direction (physical 9-10/SCR 73-74).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respondent prosecution authorities on the general legal objections, subject to the appellant's preserved section 28(4) defence

All four appeals dismissed subject to express reservation; no costs direction stated

Reasoned 1961 repeal/savings and prosecution-law questions decided at the pretrial stage; factual guilt and the prior-penalty bar remain unresolved

Do not convert legal validity against the rejected objections into an unconditional right to prosecute despite a same-facts section 28 penalty. No numbered-appeal-to-year mapping is supplied.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

A repeal problem needs separate answers for the accrued offence, the saving mechanism, the sanction/complaint route and any bar arising from another proceeding. Baliah supplies a section 297/General Clauses Act bridge for old criminal liability, but it does not replace an old offence with the new offence or dispense with a proved statutory prosecution bar. The fact that the first three penalties were recorded does not mean that their factual identity with each complaint was judicially resolved.

Tiwari Kanhaiyalal (13 March 1975) expressly followed Baliah's saving approach while distinguishing the civil penalty from criminal liability. Its penalties were imposed under section 271 of the 1961 Act through section 297(2)(g), not under old section 28, so the old section 28(4) bar did not apply. But the allegedly false declarations made while the 1922 Act operated remained section 52 offences; section 277 could not be used merely because it was the corresponding new provision, and Article 20(1) protected against greater criminal punishment. That is a materially different prior-penalty setting from the unresolved issue preserved in Baliah, not a later determination of Baliah's trial facts (physical 3-6/SCR 929-932).

Later statutory safeguards also require their own examination. The retained 2011 compilation records substitution of section 277 with effect from 1 October 1975 and later wording of section 279 requiring previous sanction, with section 279(1A) restricting specified prosecutions where the relevant penalty has been reduced or waived under section 273A. These provisions should not be collapsed into the old section 28(4) rule or treated as an absence of all protection under the 1961 Act. The selected section 297 text and its amendment footnotes remain historical compilation evidence only. No full history of tax prosecution law, criminal-procedure replacements, current-law applicability or 2025 Act mapping is certified (compilation physical 980, 984 and 1004-1006).

Source: See the proposition-specific paragraph and PDF-page references below.

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Criminal Appeal No. 130 of 1968

Outcome: Dismissed subject to the common reservation of the section 28(4) point for the trying Magistrate; no separate sentence or costs direction

2.

Case number: Criminal Appeal No. 131 of 1968

Outcome: Dismissed subject to the common reservation of the section 28(4) point for the trying Magistrate; no separate sentence or costs direction

3.

Case number: Criminal Appeal No. 132 of 1968

Outcome: Dismissed subject to the common reservation of the section 28(4) point for the trying Magistrate; no separate sentence or costs direction

4.

Case number: Criminal Appeal No. 133 of 1968

Outcome: Dismissed subject to the common reservation of the section 28(4) point for the trying Magistrate; no separate sentence or costs direction

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, four appeals, years, charges and alleged facts

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 65 heading; 66 F-67 F

2.

Topic: No implied repeal: cumulative section 52 and IPC section 177

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 68 E-70 B

3.

Topic: Operative section 297/GCA saving and subject-specific qualification

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: SCR 70 C-72 D

4.

Topic: Section 26: dual trial/conviction does not permit double punishment

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: SCR 72 E-73 A

5.

Topic: Complaint on authority, Article 14 safeguards

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 73 B-G

6.

Topic: Reserved earlier-penalty objection and all four appeal outcomes

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 73 G-74 B

7.

Topic: Tiwari separates new civil penalty, old criminal offence, prior-penalty bar and Article 20

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: SCR 929-932

Source role: later judicial qualification

8.

Topic: Later section 277 substitution and section 279 safeguards

Source url: [Open cited source](#)

Pdf pages: 980; 984

Paragraphs: Printed 1.939, 1.943; footnotes 8, 28, 31

Source role: historical statutory change

9.

Topic: Historical compiled section 297 and amendment notes

Source url: [Open cited source](#)

Pdf pages: 1004; 1005; 1006

Paragraphs: Printed 1.963-1.965

Source role: historical statutory context

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

An operative construction of section 297 and its interaction with General Clauses Act section 6 sustains prosecution for alleged old-Act offences after repeal. Distinct questions concern cumulative offences, complaint authority and the still-unresolved section 28(4) bar. Section 277 is the reported fourth charge, not a holding retrospectively converting the first three offences into new-Act offences.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V. Ramaswami, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, section 297: criminal-liability savings after repeal of the Indian Income-tax Act, 1922; section 277 in the fourth complaint

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1975_3_927_932

Title: Tiwari Kanhaiyalal etc. v. Commissioner of Income Tax, Delhi

Decision date: 1975-03-13

Classification: Expressly followed, with civil-penalty/criminal-liability distinction

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Pinpoint: SCR 929-932

Holding limit: Old section 28(4) does not bar prosecution merely because a penalty was imposed under new section 271; the alleged old declarations remain section 52 offences and the greater new criminal punishment is unavailable. This does not decide Baliah's reserved factual objection.

Bounded check: verified only within explicit read bounds

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, sections 28, 28(4), 52 and 53; Indian Penal Code, 1860, section 177; General Clauses Act, 1897, sections 6 and 26; Code of Criminal Procedure, 1898, section 195 (procedural comparison in argument); Constitution of India, Article 14

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 10 PDF pages; SHA-256
70366912dd7fbcab32d1a84ffac5785cf7fc9d53e081215c36d1bbe7f05f7850. Original bytes preserved.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

Decision dated 12 December 1968; 1969 is the report year. Catalogue identifier 1968INSC337 is not independently printed or authenticated in this rendition.

The catalogue lists Criminal Appeal 130 only; the complete source disposes of Appeals 130-133 of 1968. Decision year is 1968, report year 1969.; The image-verified name is BALIAH. OCR BALIAB is not a distinct party. The headnote at physical 1 prints section 22 in its cumulative-offence summary; the operative judicial discussion at physical 5/SCR 69 correctly identifies section 52.; The fourth complaint is expressly described as under section 277 of the 1961 Act for AY 1961-62. Dates of the allegedly false verifications are not supplied; no retrospective offence is inferred from the assessment year.; First-three-year section 28 penalties are stated, but application of section 28(4) to the same facts is expressly left open for trial. The appeal dismissal must always retain that reservation.; General Clauses Act section 6 applies here in the absence of a contrary intention on this subject, not in disregard of detailed contrary savings on other subjects.; Section 26 concerns punishment twice for the same offence; it is not a general ban on prosecution under both enactments.; Tiwari concerns new-Act civil penalties and saved old-Act criminal offences. Its Article 20 reasoning does not permit retroactive use of a harsher new criminal punishment.; The 2011 statutory compilation and editorial footnotes show later changes and safeguards only; no current-law or 2025 certificate.

The first three complaints alleged offences under section 52 of the 1922 Act and IPC section 177; the fourth alleged section 277 of the 1961 Act and IPC section 177. The source does not state the dates of the allegedly false verifications; the fourth complaint's statutory label is not inferred from the assessment year.

Four special-leave appeals from the Madras High Court order of 14 February 1968 in Criminal Revision Cases 645-648 of 1967. The catalogue names only the first appeal. The source does not expressly map each assessment year to a numbered appeal.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk. Complete amendments, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Bounded primary check: Tiwari Kanhaiyalal expressly follows Baliah on saved prosecution liability and clarifies why a section 271 penalty differs from an old section 28 penalty; it preserves the old-offence and Article 20 punishment limits. No comprehensive citator or present-law verification; not a determination of Baliah's reserved trial objection.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 70366912dd7fbcab32d1a84ffac5785cf7fc9d53e081215c36d1bbe7f05f7850

[later reported judgment bounded - PDF pages: 6](#)

SHA-256: 5d6560e2f17145d29e3cfdffc1661fd8b60ac560672977b088e05b31867a1f56

[official government hosted statutory compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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