

Jayaram and anr. Vs. State of Mysore

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Court : Karnataka

Decided On : Jan-03-1962

Reported in : AIR1962Kant31; AIR1962Mys31; ILR1961KAR349

Judge : A.R. Somnath Iyer, J.

Appellant : Jayaram and anr.

Respondent : State of Mysore

Advocate for Pet/Ap. : Mr. Doddakale Gowda

Judgement :

ORDER

A.R. Somnath Iyer, J.

1. The petitioner in Cr, R. P. 373/1961 is the owner of a van which was registered as a motor car, as spoken to by P.W. 1 who is the Sub-Inspector of Motor Squad. The petitioner in Cr. R. P. 374/1961 is his driver.

2. The prosecution case was that the motor car owned by the petitioner in Cr. R. P. 373/1961 was used by the petitioners for carrying passengers on hire and that therefore, an offence had been committed by the owner punishable Under Section 42 of the Motor Vehicles Act, and that the driver had committed an offence punishable Under Section 123 of the Motor Vehicles Act.

3. Section 42(1) on which the prosecution depends, reads:

42. Necessity for permits.-(1) No owner of a transport vehicle shall use the vehicle in any public place save in accordance with the conditions of a permit granted or counter signed Regional or State Transport Authority or the commission authorising the use of the vehicle in the manner in which the vehicle is being used:

* * * *

If it could be said that the motor car owned by the, petitioner in Cr. R. P. 373/61 is a transport vehicle it is clear that if that motor vehicle was used for' transporting passengers, an offence under Section 42(1)of the Motor Vehicles Act would be committed But, Mr Doddakale Gowda, appearing for the petitioner has urged that the van in this cas, which was used for carrying passengers , is not transport vehicle, but only a motor car as defined by Section 2(16) of the Motor Vehicle Act, which reads:

2. Defination - In this Act unless there is anything repugnant in the subject or context,-

* * * *16. 'motor car' other than a vehicle omnibus, road roller, tractor, motor cycle or invalid carriage; * * * *

4. P.W. 1 gave evidence that the vehicle which was used for carrying passengers in this case was registered as a motor car. That being so, it could not, as indicated by Section 2(16) of the Motor Vehicles Act be regarded as a transport vehicle, since a motor car is a Vehicle other than a transport vehicle

5. This leads to the conclusion that the petitioner in Cr. R. P. 373/1961 did not commit any offence when he used his van for carrying passengers for hire. The conviction of the petitioner in that case and1 the sentences passed on him are set aside. The fine if paid shall be refunded.

6. The conclusion which I have reached that the owner committed no offence in this case necessarily leads to the conclusion that the driver also did not commit any offence punishable Under Section 123 of the Motor Vehicles Act. Criminal Revision Petition 374 of 1961 is also allowed. The conviction of the petitioner in

that case and the sentence passed on him are also set aside and the fine, if paid, shall be refunded.

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