SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Vinayaka Bhat Vs. State, by Assistant Regional Transport Officer

Vinayaka Bhat Vs. State, by Assistant Regional Transport Officer

SooperKanoon Citation : sooperkanoon.com/381143

Court : Karnataka

Decided On : Sep-24-1992

Reported in : ILR1993KAR176

Judge : Mirdhe, J.

Acts : Karnataka Motor Vehicles Taxation Act, 1957 - Sections 12(1); Motor Vehicles Act - Sections 34(1)

Appeal No. : Crl. R.P.S. 158, 160 to 173 of 1990

Appellant : Vinayaka Bhat

Respondent : State, by Assistant Regional Transport Officer

Advocate for Def. : Y.R. Jagadeesha, HCGP

Advocate for Pet/Ap. : A.S. Viswanath, Adv.

Disposition : Revision petition allowed

Judgement :
ORDER

Mirdhe, J.

1. All these Criminal Revision Petitions are preferred by the petitioners against the order dated 24.2.1990 passed by the Munsiff and J.M.F.C.. Sorab, in C.C. Nos.

993/89 to 996/89, 998/89 to 1000/89, 1078/89 to 1084/89 and 887/89 respectively. Since all these petitions involve a common question of law, I have heard them together and I am passing a common order in them.

2. I have heard the learned Counsel for the petitioner and the learned Government Pleader in all these petitions.

3. The petitioner was prosecuted for not paying the annual tax of the vehicle for different period starting from 1.1.74 upto 31.12.1988. After the charges were framed against the petitioner, to which he pleaded not guilty, the prosecution examined R.W.1 and the statement of the petitioner was recorded under Section 313 Cr.P.C. The learned Magistrate convicted the petitioner for the offences punishable under Section 12(1) of the Karnataka Motor Vehicles Tax Act, 1957 (which will hereinafter be referred to as 'the Act', and sentenced him to pay a fine of Rs.100/- or in default to undergo S.I. for one month, it is against the order of conviction passed by the Magistrate in different criminal cases against the petitioner, that these Petitions are filed.

4. The defence taken by the petitioner was that the vehicle in question was very old and it was scrapped. But the learned Judge has held that he should have been vigilant in reporting the condition of the vehicle to the concerned authority and should have got the registration cancelled. The question of law involved in this case is covered by a Judgment of a Division Bench of this High Court. This Court in W.P. No. 1807/1966. Their Lordships have held as follows:

'In order to levy tax on a motor vehicle under the Act, three conditions have to be satisfied, viz.,

(1) the possession of a Motor Vehicle

(2) the Motor Vehicle must be suitable for use on roads, and

(3) the Vehicle should be kept in the State of Mysore. By reason of the Explanation to Sub-section

(1) of Section 3 of the Act, the Motor Vehicle of which the certificate of registration is current shall be deemed to be a vehicle suitable for use on roads. The presumption to be drawn by reason of the Explanation is only in respect of a vehicle being suitable for use on roads provided a Motor Vehicle is in existence. Where a Motor vehicle is in existence and its Certificate of Registration is current, the authorities under the Act are entitled to presume that the vehicle is suitable for use on roads. Such a presumption can be drawn from the existence of a vehicle provided the Certificate of Registration is current. There is no provision in the Act to presume that the Motor vehicle is in existence. If a Motor vehicle is not in existence which is a fact to be ascertained on enquiry, the levy of tax under the Act is not attracted. One of the circumstances relied on by the respondents for holding that the petitioner is liable to pay the tax is the fact that the intimation that the vehicle had been scrapped on 24.04.1963 was given under Section 34(1) of the Motor Vehicles Act only 30.07.1964. The obligation to intimate that a vehicle had been scrapped as provided under Section 34

(1) of the Motor Vehicles Act is only for the purposes of that Act and not for the purposes of the Motor Vehicles Taxation Act, 1957. The requirement as to giving intimation under Section 34

(1) of the Motor Vehicles Act is not relevant for the purpose of levy of tax under the Act. The existence of a Motor Vehicle is a condition precedent for the levy of tax under the Act. The Authorities under the Act have to enquire and determine as a question of fact whether the relevant period. If they come to the conclusion that a Motor vehicle was in existence during the vehicle was suitable for use on roads provided the Certificate of Registration was current. In our opinion, the respondents were not justified in holding that the petitioner is liable to pay the tax by reason of the fact that the petitioner did not intimate the fact of the vehicle having been scrapped and also by reason of the explanation to Sub-section

(1) of Sections.'

Therefore, the question whether the motor vehicle was scrapped and not in existence is a fact to be ascertained on enquiry and no such enquiry has been held by the respondent in this case. There is an obligation on the petitioner to

intimate that the vehicle has been scrapped under Section 34 (1) of Motor Vehicles Act. But that requirement is not relevant for the purpose of levy of tax under the Act. The existence of a motor vehicle is a condition precedent for levy of tax under the Act. Therefore, the respondent has to enquire and determine as a question of fact, whether the motor vehicle was in existence during the relevant period. There is no enquiry by the respondent in this regard and therefore, the trial Court was wrong in convicting the petitioner for the offences with which he has been charged. Hence, I proceed to pass the following order:

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com