

State of Uttar Pradesh Vs. T.R. Kalia, Asst. Br. Manager and anr.

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Court : Allahabad

Decided On : Nov-19-1962

Reported in : AIR1963All351

Judge : S.N. Katju, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 42, 123 and 123(1)

Appeal No. : Criminal Appeal No. 1 of 1962

Appellant : State of Uttar Pradesh

Respondent : T.R. Kalia, Asst. Br. Manager and anr.

Advocate for Pet/Ap. : S.N. Trivedi, Adv.;Iqbal Ali, Adv.

Disposition : Appeal dismissed

Judgement :

S.N. Katju, J.

1. I see no reason to interfere with the order passed by the Court below.

2. It appears that the fitness certificate of the opposite-parties' vehicle was to expire on the 19th January, 1961. As the vehicle was expected to be at Lucknow near about 24th January, 1961, for servicing, an application was made to the Regional Transport Authority praying for fixing some date after the 19th of

January, 1961, for the-examination of the vehicle for obtaining a fresh fitness certificate. It appears that the Technical Inspector of the Regional Transport Office, Lucknow, in substance allowed the application and directed that the vehicle may be produce for inspection before 9 A.M. on the 24th of January, 1961. Before the vehicle could be produced for inspection, it was checked on the 21st of January, 1961, while it was going from Unnao side towards Kanpur. The fitness certificate was checked and according to the Transport Authorities, it was found that it had expired on the 19th January, 1961. The opposite-parties were prosecuted under Section 42/123 of the Motor Vehicles' Act.

It appears that the case got protracted. There was an application for the transfer of the case made by the opposite-parties and it was transferred from the Court of Sri Rameshwar Sahai to the District Magistrate. It was eventually transferred to the Court of Sri O. S. Singh, Sub-Divisional Magistrate, Mohanlalganj, Lucknow, for disposal. An application was made by the opposite-party No. 2 on the 21st September, 1961, contending that the case had become old and the opposite-parties were put to loss and inconvenience in attending the Court on every day of its bearing and he threw himself on the mercy of the Court and begged for pardon. The Magistrate thereupon passed the following order:

'In view of the two statements, and the evidence on record, it does not appear necessary to proceed further in the case. The accused are warned for the future, and acquitted of all the charges made against them.'

Aggrieved from the aforesaid order, the State of U. P. had come in appeal.

3. It was strenuously contended that the order of the Court below was not a proper order because in case the guilt of the opposite-parties was established, they should not have been acquitted..

4. It may be that the order passed by the Magistrate is not happily worded. I am, however, of the opinion that the acquittal of the opposite-parties was eminently just and proper. The order passed by the Technical Inspector of Regional Transport Office, Lucknow, extending the time for the production of the vehicle for the grant of the fitness certificate from the 19th January, 1961, to the 24th of January, 1961,

implied that the time for the duration of the fitness certificate already granted had been extended up to the 24th of January. It, therefore, followed that there could be no valid prosecution till the 24th of January, 1961, and it should be deemed that the fitness certificate granted earlier to the opposite parties was in force up to the 24th of January, 1961.

In this view of the matter the prosecution of the opposite-parties was wholly unwarranted. In a case like this the citizens are entitled to consideration from the State Transport Authorities. While the provisions of the law have to be respected and followed, there is a corresponding obligation on the part of the State Authorities not to stretch any point unduly against the citizen and thereby put him to harassment and inconvenience. As I have indicated above, the fitness certificate had been extended and it was in force on the 21st January, 1961. Under these circumstances, the order of acquittal passed by the Magistrate was Just and proper. I see no force in this appeal. It is accordingly dismissed.

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