

Emperor Vs. Subhani

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Court : Allahabad

Decided On : Mar-03-1933

Reported in : AIR1933All465

Appellant : Emperor

Respondent : Subhani

Judgement :

Iqbal Ahmad, J.

1. This is a reference by the learned Sessions Judge of Mirzapur recommending that the conviction of Subhani under Section 16, Motor Vehicles Act (Act No. 8 of 1914) for contravening Rules 79 and 81, U.P. Motor Vehicles Rules of 1928 by a Magistrate of the First Class be quashed and that the fine paid by Subhani be refunded to Mm. The facts found by the learned Magistrate are that lorry No. 94 was driven on the Chilh-Gopiganj Road by. one Niaz Ahmad and that Subhani accused was in charge of the lorry. The permit that was granted to the owner of the lorry accorded permission for the lorry in question to ply within the Bhadohi district and the road on which the lorry was permitted to ply was also specified in the permit in the following words: 'State portion of the road from Bhadohi to Chilh. 'The Chilh-Gopiganj Road on which the lorry was being driven by Niaz Ahmad was not specified in the permit. The maximum number of passengers and the maximum weight of goods which could be carried on lorry in question were not as

enjoined by Rule 81 of the U. P. Motor Vehicles Rules 1928, specified in the permit. It is further to be noted that the permit was not in the revised form given in Schedule F. of the above mentioned rules.

2. The case for the prosecution was that as the lorry was driven on a road that was not specified in the permit there was a violation of Rule 79 of the U.P. Motor Vehicles Rules and that as greater number of passengers than could be taken in the lorry were found in lorry Rule 81 was also violated. The learned Magistrate, as already stated, accepted the case for the prosecution. He has now however while submitting his explanation to this Court, admitted that, in view of the omission in the permit to specify the maximum number of passengers that could be carried in the lorry, the conviction for contravening Rule 81 is bad in law. I agree with the learned Sessions Judge and the learned Magistrate on the point and quash the conviction of Subhani for violating Rule 81 of the U.P. Motor Vehicles Rules and direct that the fine imposed for that offence be refunded to him.

3. It now remains to consider the propriety or otherwise of the conviction of Subhani for contravening Rule 79 of the U.P. Motor Vehicles Rules, 1928. Section 10(1), Motor Vehicles Act, provides that 'the owner of every motor vehicle shall cause it to be registered in the prescribed manner, and that the registration shall be valid in such area as may be specified in the certificate of registration. The words 'motor vehicle' include a lorry, a motor bus, a motor cab etc., (vide Section 2 of the Act). The word 'prescribed' is also defined as meaning 'prescribed by rules under this Act.' The U.P. Motor Vehicles, Rules, 1928, have been framed by the Local Government in exercise of the powers vested in it by Section 11 of the Act and the rules so framed have the force of law (vide Section 11(3) of the Act). Rule 75 of the Rules framed by the Local Government provides that 'a motor vehicle shall not be used as a public motor vehicle unless it has been registered as such.' The application for registration is to be in the form prescribed by Schedule A of the Rules. The application must specify inter alia, in the case of motor cabs, 'the area within which the vehicle will ply' and in the case of a motor bus or a motor lorry 'the route on which the vehicle will ply' (vide serial Nos. 17 and 18 of Schedule A).

4. In the case of public vehicles- as was the lorry in question-it is further provided by Rule 79 of the Rules framed in the Local Government that, on an application being made a permit is to be granted containing inter alia ' the area within which or the route on which the vehicle may be driven.' The permit is to be on a form prescribed by Schedule F. In the case before me, as stated above, the permit accorded permission for the lorry to be driven within the Bhadohi district and the route on which it was to be driven was also specified in the permit. It is common ground that the road on which the lorry was being driven, on the date on which the offence of contravening Rule 79 is alleged to have been committed, was not specified in the permit. There is also no evidence on the record whether the road on which the lorry was found is or is not in Bhadohi district. The learned Sessions Judge was of the opinion that as permission was granted by the permit to ply the vehicle within Bhadohi district and as it did not appear from the evidence in the case whether the Chilh-Gopiganj Road was not in that district, Subhani could not be convicted for committing a breach of Rule 79. The learned Judge further held that:

the permission for the entire Bhadohi district is not restricted by the further permission to ply on the State portion of the road from Bhadohi to Chilh.

5. I am unable to agree with the learned Sessions Judge. It is true that Rule 79 provides that the permit to indicate 'the area within which or the route within which the vehicle may be driven,' but the following rules in and the schedules attached to, the rules framed by the Local Government make it abundantly clear that in the case of a motor bus or a motor lorry which is used as a public vehicle the route on which it is permitted to ply must be specified in the permit and that that route cannot be departed from. Sl. No. 18 of Schedule A of the Rules distinctly provides that in the case of a motor bus or a motor lorry the route on which the vehicle will ply is to be detailed in the application for registration. In the case of a motor cab it is provided by the same Schedule that the application is to contain the area as distinguished from the route within which the cab is to ply. Thus it is manifest that it was intended by the rules that in the case of a motor bus or a motor lorry the route, as distinguished from area, should be distinctly specified in the application for registration. Further, Rule 82 lays down that:

the owner of a motor bus shall cause to be exhibited on the vehicle the route of the ultimate destination of the vehicle....

6. As permits have to be granted for every public motor vehicle, be it a cab or a bus or a lorry, it was provided by Rule 79 that the area within which or the route within which the vehicle is to be driven is to be specified in the permit. If the permit is for a motor cab the area within which it is to be driven is to be specified. On the other hand, if the public motor vehicle is a lorry, as is the case before me, the route on which the lorry is to be driven has to be specified in the permit. Turning to the permit that was granted for the use of the lorry in question we find that it laid down that it was to ply within the Bhadohi district on the route specified in the permit. The words 'within the Bhadohi district' were merely descriptive of the route specified in the permit and are therefore controlled by the route specified therein. The permit cannot be interpreted as according permission for the lorry to be driven throughout the Bhadohi district. If it was the intention to allow the lorry to be driven at any and every road in that district it was futile to specify the route in the permit. The interpretation put upon the permit by the learned Sessions Judge defeats itself and I therefore cannot accept the same. For the reasons given above I decline to accept the reference so far as the conviction of Subhani under Section 16 of the Act for contravening. Rule 79 of the U.P. Motor Vehicle Rules 1928 is concerned. Let the record be returned.