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Yakoob Vs. State

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Court : Madhya Pradesh

Decided On : Mar-11-1957

Reported in : AIR1958MP29; 1958CriLJ51

Judge : Nevaskar, J.

Acts : Motor Vehicles Act, 1939 - Sections 2(25) and 112; Jaipur Motor Vehicles Rules, (Smt. 2006) - Rules 24, 31 and 93

Appeal No. : Criminal Ref. No. 49 of 1956

Appellant : Yakoob

Respondent : State

Advocate for Def. : Bhambhani, Deputy Government Adv.

Advocate for Pet/Ap. : S.M. Kutumbale, Adv.

Judgement :
ORDER

Nevaskar, J.

1. This is a reference made by the learned Additional Sessions Judge Indore.

2. The facts giving rise to the present reference are as follows:

Goods-truck belonging to one Ramanbhai Chhotabhai was being taken by the accused Yakoob from Indore to Julwania. This was checked near Bijalpur. The prosecution case is that the truck had no side mirror as required by Rule 129 of the Motor Vehicles Rules Samvat 2006 and it did not bear the letters R. L. W. as required by Rule 31 of the aforesaid Rules.

On these facts he was prosecuted before the First Class Magistrate, Indore.

The learned Magistrate found the accused guilty and convicted him under Section 112 of the Motor Vehicles Act for transgressing the aforesaid Rules and sentenced him to a fine of Rs. 2/- and 3/-respectively in respect of these two charges.

3. Accused preferred revision petition in the Court of Sessions and the learned Additional Sessions Judge who heard the matter was inclined to hold that the conviction of the accused in respect of the offence involving transgression of Rule 129 was proper. He however held that his conviction for transgressing Rule 31 was not entitled to stand. He has therefore made this reference.

4. The principal ground set out in the order of reference is that the accused was a driver of the vehicle which was a goods-truck. The responsibility of complying with the requirement of Rule 31 is cast upon the owner of the vehicle under Rule 24 (a) which applies to such vehicles and not upon the driver. The Trying Magistrate had called in aid the provisions of Rule 93 of these Rules which are applicable to the public-service vehicle as defined in Section 2 (25) of the Motor Vehicles Act. According to the definition the goods-truck is not a public service vehicle as defined under the Act. The conviction of the accused could not stand in view of this legal position.

5. In my opinion the opinion expressed by the learned Additional Sessions Judge is correct.

Rule 24 (a) of the Motor Vehicles Rules which applies to the present case is as follows:

'After the first day of October 1949, no owner shall permit any goods-vehicle to be driven in any public place, being a goods vehicle deemed to be registered under

the Act by virtue of the provisions of Section 23 of the Act, unless the registered laden weight is stated in the certificate of registration and exhibited on the vehicle in the manner specified in Rule 31.'

Rule 31 (a) (iii) of the Motor Vehicles Rules is as follows:

'The registered laden weight denoted by R. L. W. ..... lbs.;'

Section 112 of the Motor Vehicles Act lays down as follows:-

'Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to twenty rupees, or if having been previously convicted of any offence under this Act he is again convicted of an offence under this Act, with fine which may extend to one hundred rupees.'

6. It will be clear from these provisions that it is the owner of a goods vehicle whose duty it is to see that his vehicle is not driven in a public place unless the R. L. W. is stated in thecertificate of registration and exhibited on the left hand side of the vehicle in the manner indicated in Rule 31 (a) quoted above.

7. There is no rule brought to my notice which casts a duty upon the driver to see that the provisions of Rule 31 are complied with.

8. It also appears from the statement of the only witness examined in the case that when the Panchanama was prepared with regard to the non-compliance of Rule 31 he was shown only the window on the right hand side. Transport Officer who had checked the truck is also not examined. Prom the evidence adduced it is, therefore, doubtful whether the truck had on its left side the necessary matter as required by Rule 31 or not and the benefit of this doubt must go to the accused.

9. For both these reasons the conviction of the accused is not entitled to stand.

10. The reference is therefore accepted and the conviction of the accused for an offence under Rule 31 of the Motor Vehicles Rules read with Section 112 of the Motor Vehicles Act is set aside. Fine imposed upon him in respect of this offence shall, if paid, be refunded to him.

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