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R.D. Jain, J. Vs. the State

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Court : Delhi

Decided On : May-30-1968

Reported in : 4(1968)DLT626

Judge : I.D. Dua, C.J.

Acts : Mtoor Vehicles Act, 1939 - Sections 78; Code of Criminal Procedure (CrPC), 1898 - Sections 260

Appeal No. : Criminal Revision Appeal No. 216 of 1968

Appellant : R.D. Jain, J.

Respondent : The State

Advocate for Pet/Ap. : Harjinder Singh and; V.D. Misra, Advs

Judgement :

I.D. Dua, C.J.

(1) The learned Additional Sessions Judge, Delhi (Shri K.S. Sidbu) has reported this case to this Court under Section 430, Code of Criminal Procedure, with a recommendation that the order of conviction made by Shri S.L. Puri, exercising the powers of a Magistrate 1st Class, be quashed and the petitioner Shri R.D. Jain be acquitted. The order of conviction may appropriately be reproduced in extenso: - 'Dont plead guilty. The first vehicle before me was stationary and after toher

vahices in front of me have moved and I overtook it and this Police Officer challaned me. I find him guilty of offence 78/112. So I convict bill to pay a fine Rupees fifty'. The impugned order does nto bear any date. Above the original order, the following subject-matter has been imprinted by means of a rubberstamp, some of the blanks of which are filled in ink: 'Statement of accused without oath Shri R.D. Jain, 45 years. Occupation Private Service. Q. The complaint dated 781112 has been read to you. Did you commit offence u/s. 78/112? Ans. _____ _____ 19/12/1966 The accused pleads guilty. He is, thereforee, convicted and sentenced to pay a tine of Rs..... .....u/s. 78/112 MVR/MVA or in default S.I. for..... ..... . day/months Announced. M.I.C. DELHI. sd/- R. D. Tain 19/12' The whole of the judgment except the digits'78/112' which are in ink is imprinted by a rubber-stamp.

(2) What has just been reproduced finds place on the reverse of p. 105/3, of the record of the proceedings dated 19th December, 1966. At p. 105/3, there is a report by the Challaning Officer addressed to Shri S.L. Puri. In this report it is stated, to reproduce, so far as legible the actual language, 'that on 19th December, 1966, on Panchkujan Road, at 5.60 p.m. Shri R.D. Jain, son of Shri R.D. Jain, 8. Janpath Lane, had committed the offence of comming from Mariana Htoel side, overtook stationary vehicle standing when 'Q' was formed in second lane and request that action he taken under the provisions of sections/rules 78/1 12 MVA/D.M.V. Rules, 1940.' At the btotom of this printed form, the signatures of R.D. Jain are found beneath a printed matter which is left blank. This matter does nto seem to have any relevance for the purposes of the case. After the leaf bearing No. 105/3, the subiectmatter on btoh sides of which has been reproduced, I find an unpaged full scape sheet, of while paper purporting to bear the statement of Shri S.I. Kailash Chander dated 20th December, 1966 and thereafter comes leaf bearing No. 106 which is also a report dated 19th December, 1966 by Kailish Chander, Challaning Officer against one Mohinder Singh, addressed to Shri S L. Puri. At the back of this report, there is a similar rubber-stamp in which it is entered that Mohilder Singh, son of Jeewan Singh pleaded guilty and was, thereforee, convicted and sentenced to pay a fine of Rs. 10.00. In this case, there is ntohing mentioned as to under which provision of law he had been convicted. The record produced before this Court consists of the proceedings held by Shri S. L. Puri, on

19th December, 1966 when he disposed of 1 1 traffic caes I have also looked at the cases disposed of at pages 97/3 to 104/3 and they also reveal a somewhat irregular manner of disposing of traffic casas and of collecting fines. In the case of one B. S. Saxena of Pandara Road, on the reverse of P. 8713, the rubber stamp regarding the judgment is affixed above the rubber stamp containing the statemant of the accused which does nto even bear iis name. Saxena's case also seems to mi to be similar to that of R. D. Jain, though in the former the fine is of Rs 10.00. In some of the toher cases on this record, the reports are wholly illegible. One wonders how the learned Magistrate could have judicially applied his own mind to all those cases. This is the unhappy state of the record.

(3) The learned Additional Sessions Judge took pains to go through the record of R. D. Jain's case, but was unable to understand what the learned Magistrate had been talking about in his judicial order. The learned Judge has undoubtedly used somewhat strong language --which could have been mieder -about the efficiency and the sense of fairplay and justice of the learned Magistrate, who has been found lacking in btoh. While dealing with the white full scape sheet of paper, which purports to contain a statement of S.I. Kailash Chander dated 20th December, 1966, the learned Additional Sessions Judge has expressed bids opinion thus : -

'ITmay here be mentioned that the record reveals something more serious and disturbing than all this. After having convicted the accused as aforesaid on December 19, 1956. the Magistrate seems to have realised that he made a mistake in convicting the accused without recording any evidence against him. He then recorded the statement of the challaning police officer on December 20, 1996.'

The learned Additional Sessions Judge has also observed that in the complaint, there was no allegation that the accused had committed any infringement of a mandatory traffic sign included in Part A of the Ninth Schedule or of any traffic regulation set forth in the Tenth Schedule of the Mtoor Vehicles Act, nor was it alleged that the accused had ignored any direction given to him by the police engaged in the regulation of the traffic at the road concerned. After reproducing section 78 of the Mtoor Vehicles Act, the learned Additional Session' Judge came

to the conclusion that the allegations in the present case did nto fall within that section.

(4) I have heard the counsel for the parties and after going through the record, I have nto the least hesitation in agreeing with the learned Additional Sessions Judge for the reasons recorded by him that the conviction in this case is wholly unsustainable. I also share his anxious concern expressed by him in his order. According to him, what has happened in this case, betrays a lamentable state of affairs in regard to the knowledge of law and the judicial approach on the part of the learned Magistrate concerned and the learned counsel turn the State has nto even attempted to persuade me that the view of the learned Additional Sessions Judge is by any means unfair.

(5) Shri Misra has, however, made an attempt to convince me that the statement of the Sub-Inspector, which bears the date 20th December, 1966, must have been actually recorded en 19th December, 1968, and it is perhaps by inadvertence that the learned Magistrate has put 20th December, 1966 as its date. The paging of the entire record, however, does nto fit in with this Explanationn. Besides, the nature of the sheet of paper inserted, incongruous as it appears to be, also seems to me to require some Explanationn. None, however, is forthcoming. What is still more surprising is that this statement does nto even purport to be made on oath and there is ntoing on the record to show that the accused was allowed to cross examine the sub-inspector, nor does the statement purport to have been read over to the witness and of course it is nto signed by him. Finally, it is extremely doubtful if in these summary proceedings, there was time enough for recording such a lengthy statement on a full scape sheet and with such ease as is obvious from the subject matter. The pen and ink used in the order and in the report also gives an impression of being somewhat different from the pen and ink used in recording the statement of the Sub Inspector on the white sheet of paper. Without going more deeply into these derails, I find little hesitation, on the arguments addressed, in agreeing with the impression formed by the learned Additional Sessions Judge that the trial of Shri R. D. Jain, betrays a state of affairs which cannto be too strongly disapproved. However summary the proceedings in traffic cases, and I have no doubt that from the very nature of things, they have to be summary, it is

highly desirable that those who try them, at least know what constitutes a traffic offence and avoid committing such blunders as have been committed by the learned Magistrate in the present case. They should at least record their orders in a logical and under. standable language and also have a proper grasp of the traffic regulations and the laws and the rules Governing Traffic offences. They should apply their own judicial mind and nto mechanically sign below the rubberstamp presumably affixed by some police constable.

(6) I mast nto be understood to convey the idea that in my view, all those who drive mechanically propelled or toher vehicles on public roads in Delhi, always obey rules of traffic. The truth is undoubtedly far from it. In fact. in my opinion, quite a large number of such persons, including fairly educated and high-placed persons of respectable status and even those who are expected to enforce such regulations, are at times found violating the rules of traffic. But this does nto by any means justify trial of traffic offences in the indefensible manner in which the learned Magistrate has tried the present case. One important, and if I may say so, effective way of securing compliance with traffic regulations is to educate the people by all possible means about the desirability of observing the rules of traffic in the interest of safety and overall general saving of time as well. In this respect, those who enforce the rules and also those who weild influence in life, would serve the cause of educating tohers better by themsevles setting the example. It should nto be the presence of a police constable alone which should impel the people to observe the rules of traffic, but such observance should come instinctively as a matter of habit. Compliance with these rules should be inspired by their own intrinsic utility in an orderly society.

(7) Before concluding, I would also like to observe that judicial language in judgments should nto be very strong, but restrained, and balanced, though firm. I quite agree that in this case the record does nto reveal either knowledge of law or the sense of judicious fairplay on the part of the learned Magistrate. But it is eminently desirable that that the higher Courts should use restrained but effectively expressive language while recording disappraval of the order of the Courts below.

(8) It is a matter of satisfaction that Shri Misra has, in accordance with the high traditions of the Bar, addressed arguments in a very fair and detached manner and has nto, as sometimes happens, attempted to defend the indefensible.

(9) For the reasons foregoing, I accept the recommendation of the learned Additional Sessions Judge and in agreement with him, set aside and quash the order of conviction recorded by the learned Magistrate and direct that the fine, if paid, should be refunded to the petitioner. Recommendation accepted.

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