

In Re: Ramanujam Naidu

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Court : Chennai

Decided On : Jul-29-1929

Reported in : (1929)57MLJ457

Appellant : In Re: Ramanujam Naidu

Judgement :

ORDER

Curgenven, J.

1. These proceedings under the Motor Vehicles Act were instituted against the petitioner on a report by Head Constable No. 1346 to the Sub-Inspector of Kumbakonam. In the charge framed against him it was alleged that he drove Bus No. 333 in Kaluthai Tope Road, Kumbakonam, and 'instead of stopping his bus on seeing Bus No. 416, which came in the opposite direction, and without caring for the regulation under which the C.P.I. (the Circle Inspector) asked him to stop, drove very fast.' There are two separate actions imputed in this charge, the first being that the accused failed to stop his bus on seeing Bus No. 416. I understand it to be the rule that, when two motor buses are about to pass each other, it is the duty of one of them to stop, presumably in the interests of safety. It has been admitted, however, by the prosecution in this case that, on the occasion in question, it was the duty of the driver of the other Bus No. 416 to stop his vehicle and accordingly the petitioner was found not guilty of failing to observe this rule.

2. There remains the charge that he failed to stop when the Circle Inspector asked him to do so. It has been contended on behalf of the petitioner that, under Section 4 of the Motor Vehicles Act, a driver can only be stopped by a police officer who is engaged in regulating traffic. This, I think, is so clearly against the language of the section as not to merit further discussion. Part (a) of the section requires that a driver should stop in three sets of circumstances: firstly, that traffic may be regulated; secondly, that a name and address may be obtained with a view to a prosecution, and, thirdly, for the purpose of enforcing any of the provisions of the Act. The allegation by the prosecution is that the bus was overloaded and that the Inspector wished to inspect it and to check the license. These, I think, were reasons for stopping it coming under the third and last category above--the enforcement of the Act.

3. There remains the question of fact whether, before the petitioner's bus passed the bus in which the Inspector was seated, he made a sign to the petitioner to stop which the petitioner saw and disregarded. I should in ordinary circumstances have accepted the evidence of the two police witnesses were there not considerable difficulty in the way of such a course. The report of the Head Constable, which certainly ought to contain the elements of the offence charged is, as I read it, that the petitioner's bus ought to have stopped when passing the other bus and that it not only failed to do so but did not stop in spite of the order of the Circle Inspector. I am quite unable to extract from this report the definite statement that, irrespective of the rule requiring the stopping of the bus upon meeting the other bus, the Circle Inspector signalled to the petitioner to stop before the passing took place. This is also the impression which I get from the examination-in-chief of both the Head Constable and the Circle Inspector. The Head Constable says: 'Bus Tan. No. 333 driven by the accused passed and it was not stopped even when I and the Inspector asked him to do so.' In chief examination the Inspector says: 'It did not stop when it passed my bus' and it was only elicited from him in cross-examination that hands were put up to stop the bus. The driver and the conductor of Bus No. 416 were examined as D.Ws. 1 and 2 and one was unable to state whether, before the accused passed Bus No. 416, the Inspector raised his hand, whereas the other denied that such an action took place. There is no doubt that, after the petitioner had driven his bus by, the police officers called out to him to stop and he

eventually stopped. But inas-much as the conviction is based on the finding that the petitioner received and disregarded the signal to stop before passing the other bus I am unable to agree that the evidence supports it.

4. I allow the petition, set aside the conviction and direct that the petitioner be acquitted and the fine, if paid, be refunded.

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