

In Re : Ramaswamy Reddiar

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Court : Chennai

Decided On : Jul-16-1964

Reported in : 1965CriLJ314

Judge : Kunhamed Kutti, J.

Appellant : In Re : Ramaswamy Reddiar

Judgement :

ORDER

Kunhamed Kutti, J.

1. The Sub Magistrate I, Madurai, convicted the petitioner Ramaswami Reddiar with a sentence of fine of Rs. 150 for an offence under Section 72(3) read with Section 124 of the Motor Vehicles Act. The petitioner is a lorry driver. The case against him was that while he was permitted to load in his lorry goods of the weight of 20160 lbs. he was found to have carried an excess load of 896 lbs on 2.11.1902, when P.W. 1 stopped him at about 11.40 p.m. in Madurai town. This certainly was an offence and the learned Sub Magistrate who tried the case convicted him with sentence as stated above. In appeal the District Magistrate, Madurai, confirmed the conviction and sentence.

2. A point is urged before me in revision which I think I should uphold in the circumstances of this case. Rule 411 of the Rules framed under the Motor Vehicles Act states that police officers, not below the rank of Sub-Inspectors,

Inspectors of Motor Vehicles and Regional Transport Officers, are authorised to require the weighing of goods vehicles and trailers. In this case, P.W. 1, who is a Head-constable, had detected the excess weight, and instead of approaching the Sub Inspector to require the weighing of the loaded lorry, himself weighed it and gave evidence in the court. The conviction in this case is therefore based on his evidence. I have had the advantage of hearing the learned Public Prosecutor in this case. He has not been able to point out to me any other provisions in the Act or the rules enabling a constable of the position of P.W. 1 to weigh a laden lorry apart from Rule 411. The point urged thus goes to the root of the case for this reason that if the evidence of P.W. 1 is eliminated as to weighing the lorry, there is no evidence as to excess weight to justify the petitioner's conviction under Section 72(3) read with Section 124 of the Motor Vehicles Act.

3. This petition has therefore to be and is allowed and the petitioner's conviction is set aside. The fine if recovered will be refunded to him.

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