

In Re: J.F. Mathias

In Re: J.F. Mathias

SooperKanoon Citation : sooperkanoon.com/780074

Court : Chennai

Decided On : Sep-17-1948

Reported in : 1949CriLJ556

Judge : Subba Rao, J.

Appellant : In Re: J.F. Mathias

Judgement :

ORDER

Subba Rao, J.

1. The charge against the accused was that he on 20th June 1917 at about 9-16 A.M., when he was riding his motor cycle M. D. x. 82 on the public road from Maidan Road towards Baimatta side failed to stop the vehicle at the Hampankatta beat point Rs. 3 when a stop signal was given by a police-officer in uniform at that traffic point thereby violating Section 87(l)(a), Motor Vehicles Act. The Stationary Sub-Magistrate believed the evidence of the police constable and convicted the accused under the said section and fined him a sum of five rupees. I have no reason to disbelieve the evidence of p. w. 1.

2. Mr. Santosh raised a point for the first time that the prosecution did not establish by evidence one of the important ingredients of the section, namely, that the police-officer was in uniform at the time the offence is alleged to have been committed.

3. Section 87(1)(a), Motor Vehicles Act, 1939, reads as follows:

The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonably be necessary (a) when required to do so by any police officer in uniform.

Section 4, Motor Vehicles Act, VIII [8] of 1914, reads as follows:

The person in charge of a motor vehicles shall cause the vehicle to stop and to remain so long as may reasonably be necessary (a) when required to do by any police officer for the purpose of regulating traffic or o ascertaining his name and address with a view to prosecuting such person under this Act or for any purpose connected with the enforcement of the provisions of this Act or the rules thereunder.

4. It will therefore be seen that the legislature purposely added in the amending Act the words 'in uniform'. It is not permissible to ignore that ingredient of the offence. The is the duty of the prosecution to adduce evidence to establish that the police officer concerned was in uniform at the time when the alleged offence was committed. In this case that evidence is not forthcoming, though in the charge it was stated, that the police officer was in uniform. This is a very important defect in the prosecution case. I therefore hold that the prosecution did not prove that the accused committed the offence within the meaning of Section 87(1)(a), Motor Vehicles Act. The revision petition is allowed and the conviction and sentence of the petitioner are set aside.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com