

**The Public Prosecutor Vs. Jevan and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/782313](http://sooperkanoon.com/782313)

**Court :** Chennai

**Decided On :** Apr-29-1941

**Reported in :** AIR1941Mad845; (1941)2MLJ349

**Appellant :** The Public Prosecutor

**Respondent :** Jevan and ors.

**Judgement :**

**Lakshmana Rao, J.**

1. These are appeals by the Provincial Government against the orders of acquittal of the respondents of an offence under Section 123 (1) of the Motor Vehicles Act.
2. The respondents are drivers of transport vehicles and they were prosecuted under Section 123 (1) of the Motor Vehicles Act for driving the vehicles on the public road without a permit authorising the use of the vehicles in a public place. They pleaded that it was the duty of the owner to obtain the permit and accepting their plea the Sub-Magistrate acquitted them.
3. The alleged driving of the transport vehicles on the public road without a permit authorising the use of the vehicles in a public place was not denied by the respondents, and so far as is material, Section 42 (1) of the Motor Vehicles Act provides that no owner of a transport vehicle shall use or permit the use of the vehicle in any public place save in accordance with the conditions of a permit

authorising the use of the vehicle in that place. The driving of a transport vehicle on the public road without such a permit would certainly contravene Section 42 (1) of the Act; and Section 123 (1) enacts that whoever drives a motor vehicle in contravention of the provisions of Sub-section (1) of Section 4- shall be punishable with fine. That the permit is to be obtained by the owner cannot make any difference and whoever drives the vehicle in a public place without a permit authorising the use of the vehicle in that place would be punishable under Section 123 (1) of the Act. The orders of acquittal are therefore set aside and the respondents are convicted under Section 123 (1) of the Motor Vehicles Act. They are sentenced to pay a fine of Rs. 5 each and in default to simple imprisonment for one week.

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