

In Re: A.T. Kava

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Court : Chennai

Decided On : Dec-09-1938

Reported in : AIR1939Mad524; (1939)1MLJ700

Appellant : In Re: A.T. Kava

Judgement :

ORDER

Lakshmana Rao, J.

1. The petitioner is the owner of motor lorry S.K. 1089 registered for private trade purposes and he has been convicted under Section 174(a) of the District Municipalities Act read with Section 313(1) for using the lorry on the public streets in the Municipality of Mangalore without requisite license for a motor lorry plying for hire.

2. The lorry of the petitioner was hired out for transporting coffee-husk from Chickmagalur to Mangalore on 2nd and 9th September, 1937, and it was used for that purpose on those occasions on the public streets in the Municipality of Mangalore. The lorry was obviously a lorry plying for hire though it was registered for private trade purposes, and the petitioner had no licence for a motor lorry plying for hire as required by Section 174(a) of the District Municipalities Act. The section provides that no person shall use any motor lorry on any public street in any municipality except on a licence obtained from the executive authority, and it

is immaterial where the act of hiring takes place. It is the user of the lorry that is relevant and the guilt of the petitioner under Section 174(a) read with Section 313(1) admits of no doubt. The conviction is therefore right but the fine of Rs. 75 in addition to the license fee is excessive. The fine is therefore reduced to Rs. 25 and otherwise this petition is dismissed. The excess of fine if levied will be refunded.

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