

In Re: M. Abraham

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Court : Chennai

Decided On : Oct-19-1949

Reported in : AIR1950Mad233

Judge : Panchapakesa Ayyar, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 341

Appeal No. : Criminal Revn. No. 1035 and Cri. Revn. Petn. No. 975 of 1948

Appellant : In Re: M. Abraham

Advocate for Pet/Ap. : S. Krishnamurthi and ;Vepa P. Sarathi, Advs.;Assistant Public Prosecutor

Disposition : Petition dismissed

Judgement :

ORDER

Panchapakesa Ayyar, J.

1. This is a petition against the conviction of the petitioner under Section 341, Penal Code, by the Additional First Class Magistrate, Chingleput, and a fine of Rs. 50 imposed on him therefor.

2. The facts are briefly these. The petitioner was the first accused in C. C. No. 686 of 1947 on the file of the Additional First Class Magistrate, Chingleput. He was the driver of bus No. MDH 787- The prosecution case is that, on 27th September 1947, he purposely made his bus stand across the Thirukkalikundram Road, at Chingleput, near the Chowki post in such a manner as to prevent another bus, MDH 1167, which was coming from behind, to proceed further. When P. W. 1, the driver of MDH 1167 turned his bus to the right, to avoid and pass the petitioner's bus, the petitioner deliberately and intentionally drove his bus MDH 787 in a rash and negligent manner and dashed against bus No. 1167, causing damage, and thereby committing an act endangering the life of the passengers who were travelling in that bus. The learned Magistrate found this petitioner guilty only under Section 341, Penal Code, for wrongfully restraining the driver and passengers of bus No. 1167, and sentenced him as stated above.

3. The learned counsel for the petitioner has contended before me that the petitioner would not be guilty of 'wrongful restraint' by preventing the progress of the other bus MDH 1167, by putting his bus across the road, because of the observations of the Bench ruling in Gurucharan Kaur v. Province of Madras, I. L. R. (1942) Mad. 696 : A.I.R. 1942 Mad. 539:44 Cr. L. J. 45. I have looked into that ruling. It will not help the petitioner. It was mainly concerned with the question of 'wrongful confinement,' and not with 'wrongful restraint,' as here, though that question was also incidentally referred to by way of obiter. The learned Magistrate relied on the ruling in Gopala Reddi v. Lakshmi Reddi, 1916 M. W. N. Cr. 118 : A.I.R. 1947 Mad. 124: 48 Cr. L. J. 459, a later judgment of Happell J. and more or less a direct ruling on the point, on similar facts, and convicted and sentenced the petitioner.

4. I have perused the entire records, and heard the learned counsel for the petitioner and the learned Public Prosecutor contra. The first contention of the learned counsel for the petitioner was that the ruling of Happell J. in Gopalareddi v. Lakshmi Reddi, 1946 M. W.N. Cr. 118 : A.I.R. 1947 Mad. 124 : 48 Cr. L. J. 459 was not correct, and that, since the driver of bus No. MDH 1167 and the passengers therein could have either got down from the bus and walked away in various directions, or got into the petitioner's bus and proceeded in the direction

they wanted, or even proceeded in their bus in another direction, no offence was committed under Section 341. The argument is quite unsustainable. Section 339, Penal Code says :

'Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed,'

wrongfully restrains that person. It is only regarding wrongful confinement that the person must be prevented from proceeding beyond certain circumscribed limits, i.e. prevented from proceeding in any direction beyond those limits, It is absurd to say that because the driver and the passengers of the other bus could have got down from that bus and walked away in different directions, or even gone in that bus to a different destination, in the reverse direction, there was, therefore, no wrongful restraint. Such a contention will make 'wrongful restraint' under the Penal Code infructuous and meaningless. Proceeding in any direction must only mean proceeding in that direction and not in any other direction, much less in the reverse direction. Nor can anybody be forced to get into the obstructor's bus and travel, which will be a kind of press-ganging system for the bus, not recognised by law.

5. The last contention was that the persons were obstructed only if they went by the bus and not if they got down from the bus and walked along in the direction they wanted. It has been held by Happell J. that this contention will not be of any avail and that any person travelling in a vehicle is entitled to travel in that vehicle, and should not be compelled to get down from that vehicle and walk or proceed in any other manner the obstructor wants. That is elementary commonsense. Suppose for instance, four people are taking a corpse to the cremation ground, and they are obstructed regarding the corpse but would be free to proceed to the cremation ground after leaving the corpse behind, it is obvious that the excuse that, as they had liberty to proceed without the corpse to the cremation ground, there was no obstruction would be frivolous and unsustainable, as the very object of these persons proceeding to the cremation ground is to take the corpse with them there. So too, a man going in his car or bus to a destination intends to take the bus or car to that destination and should not be forced to convert himself into a veritable pedestrian, trudging wearily all the way, by the wrongful act of any

obstructor.

6. This petition deserves to be and is hereby dismissed.

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