

In Re: Manager, Indian Express

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SooperKanoon Citation : sooperkanoon.com/784156

Court : Chennai

Decided On : Mar-22-1945

Reported in : AIR1945Mad440; (1945)2MLJ68

Appellant : In Re: Manager, Indian Express

Judgement :

ORDER

Happell, J.

1. The petitioner has been convicted by the learned Chief Presidency Magistrate of an offence under the Motor Vehicles Act and has been sentenced to pay a fine of Rs. 50. The facts as proved are that a motor car owned by the petitioner was twice used, on the 1st of July and a week before, for taking bundles of newspapers from the office of the Indian Express to the railway station. Section 42(1) of the Motor Vehicles Act prohibits the use of a transport vehicle save in accordance with the conditions of a permit and Section 123 provides the punishment for an offence in contravention of Section 42(1). A goods vehicle is by definition a transport vehicle [Section 2(34) of the Motor Vehicles Act]; and 'goods vehicle' is defined in Section 2(8) as follows:

'goods vehicle' means any motor vehicle constructed or adapted for use for the carriage of goods or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers.

The petitioner held no permit for the use of the motor car as a transport vehicle, and accordingly if the motor car was a 'goods vehicle ' as defined in Section 2(8) by reason of the fact that it was used twice to carry newspapers to the station, the offence charged was committed. The first part of the definition of ' goods vehicle ' given in Section 2(8) of the Act does not apply to the present case. The argument advanced is that the petitioner's motor car is not a goods vehicle within the meaning of the second part because it was used only twice for the carriage of goods, and so has not been used solely for the carriage of goods or solely for the carriage of goods in addition to passengers. This is a quite untenable construction. The view taken by the Chief Presidency Magistrate that the word ' solely ' is in contra-distinction to the words which follow, viz., ' in addition to passengers ', is undoubtedly correct; and he puts the meaning of 'solely ' in the context clearly when he says ' in other words it makes no difference to the answer to the question whether a particular vehicle is a goods vehicle, whether in addition to goods passengers are carried or not.' The second part of the definition of 'goods vehicle' as it stood before amendment was ' or a motor vehicle not so constructed or adapted which is habitually used for the carriage of goods and not of passengers.' This was an obviously unworkable definition, and it cannot be believed that the Legislature substituted for it a definition which would enable a motor vehicle to be used for the carriage' of goods without a permit provided that it was used for the carriage of passengers only for one or two days in the year. The petitioner, in my opinion, was rightly convicted. The petition is therefore dismissed.