

**In Re: R. Manicka Mudaliar**

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**SooperKanoon Citation :** [sooperkanoon.com/784251](http://sooperkanoon.com/784251)

**Court :** Chennai

**Decided On :** Jan-24-1946

**Reported in :** AIR1947Mad156; (1946)2MLJ427

**Appellant :** In Re: R. Manicka Mudaliar

**Judgement :**

ORDER

**Kuppuswami Ayyar, J.**

1. The petitioner has been convicted for an offence punishable under Rule 8 of the Madras Traffic Rules. He was a driver of a motor bus that was coming on the date of the offence from Ootacamund towards Coonoor. The offence is said to have taken place just below where the Ootacamund-Coonoor road branches off towards the barracks at Wellington. A military lorry was parked on the eastern side of the road just near a bend in that road. Every motor vehicle that had to pass through that portion of the road had necessarily to overtake that parked lorry. On the date of occurrence, P.W. 1, a motor cyclist was coming towards Ootacamund from Coonoor and he is said to have run into the motor bus that was coming from the north and was driven by the petitioner. The prosecution case is that there was contravention of Rule 8 of the Madras Traffic Rules by the accused inasmuch as he overtook the lorry that was standing. As stated already the lorry was parked on the eastern side of the road. The evidence of the motor cyclist was to the effect that he came round the corner and found the bus in the act of passing the parked

military lorry . If he was therefore able to see the bus overtaking the military lorry, then the bus must have come near much earlier than the time when the driver could have noticed the motor vehicle coming up. If that be so, there was nothing wrong in his having overtaken the military lorry. There was nothing in view to indicate that he could have apprehended causing any inconvenience or danger for other traffic, before he overtook the lorry. Therefore no offence could be said to have been committed by the petitioner by any contravening of Rule 8, Clause (a).

2. Now let us see if there was any contravention of Rule 8(b). It says that when any person is in the vicinity of a bend or corner or hill or other obstruction which impedes his view ahead he should not overtake a vehicle. In this evidently by ' vehicle ' was meant a vehicle that is moving and not a vehicle that is parked. If you take it as including a parked vehicle then it would mean that whenever there is a vehicle parked in a road near a bend, there should be no traffic near that portion of the road. It is clear that there was this collision between the motor cycle and the bus only after the bus had overtaken the parked lorry. This is a case therefore in which the road was blocked by a parked lorry and we will have to consider whether in the portion which was not blocked there was any contravention of the traffic rules. I am not able to see any contravention.

3. It is clear from the evidence of D. W. 1 that the motor cyclist was coming up the hill at a fast speed. D. W. 1 put it at 50 miles per hour, but the Magistrate himself considers that he must have been travelling fast. If, therefore, it is a case of a vehicle that was coming fast near a bend, then it cannot be said that the motor bus driver was wrong in having overtaken the lorry near the bend when he had not seen any obstruction or any inconvenience or danger by this overtaking. This is therefore a case in which the driver of the bus is entitled to the benefit of the doubt and giving him the benefit of the doubt, I set aside the conviction and sentence and acquit him.