

In Re: Kasi Viswanathan

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Court : Chennai

Decided On : Apr-22-1953

Reported in : AIR1954Mad263; (1953)2MLJ687

Judge : Krishnaswami Nayudu, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 82

Appeal No. : Cri. Revn. Case No. 590 and Cri. Revn. Petn. No. 487 of 1952

Appellant : In Re: Kasi Viswanathan

Advocate for Pet/Ap. : N.R. Govindachari, Adv.;R. Santanam, Adv. for ;Public Prosecutor

Disposition : Revision allowed

Judgement :

ORDER

Krishnaswami Nayudu, J.

1. This revision is against the order of the Sub-Divisional Magistrate, Tiruchirappalli, dismissing the petitioner's appeal, preferred against the conviction and sentence of the petitioner by the Sub-Magistrate of Tiruchi-rapalli for an offence under Section 82, Motor Vehicles Act.

2. The petitioner was a conductor in charge of bus No. MDW 2772, which was proceeding on 28-6-1951 from Dindigul to Tiruchirapalli. At Ramjinagar, a place 6 miles from Tiruchirapalli, the petitioner was travelling on the running foot-board of the bus at about 7-5 p.m. and this was noted by H. C. 386. A complaint was laid under Section 82, Motor Vehicles Act read with Section 112 of the same Act. The finding of the first Court is that he was found standing on the foot-board of the bus by the H. C., who was examined as P. W. 1 and also by another independent witness, P. W. 2, which finding of fact has also been accepted by the Sub-Divisional Magistrate in appeal.

The argument on behalf of the petitioner in both the Courts was that Section 82 does not prevent either a driver or any person in charge of a motor vehicle -- here there is no dispute that the conductor is a person in charge of the motor vehicle -- from standing on the running board. Section 82, Motor Vehicles Act is in the following terms :

'No person driving or in charge of a motor vehicle shall carry any person or permit any person to be carried on the running board or otherwise than within the body of the vehicle.'

Both the Courts construe the words 'any person' referred to in the section as including the conductor as there is nothing in the section excluding the conductor as such and the section does not say 'any other person' but only any person, which, in the opinion of both the Magistrates, will include the conductor.

But a careful reading of the wording of Section 82 in my view would not support the construction that has been put upon by the learned Magistrates. What is prohibited under Section 82 is the allowing of any person on the running board and it is provided that all persons should be carried only within the body of the vehicle. The person driving, who is the driver of the vehicle, or the person in charge of the motor vehicle, as the conductor in the present case, are prohibited from carrying any person or permitting any person to be carried on the running board or otherwise than within the body of the vehicle. That is, the passengers or other persons, who are carried in the vehicle, shall be accommodated within the body of the vehicle and should not be permitted to be carried on the running board, which

is the foot board.

The prohibition is not against the person driving or in charge of the motor vehicle but only against others, that is, persons other than the person driving or other than the person in charge of the motor vehicle. The duties of a conductor would certainly, on occasions, require his standing on the running board, when it becomes necessary to warn passengers waiting on the road at stopping places to caution if the vehicle is already full of passengers telling them that there was no room. Such occasions might arise, when in the course of the performance of their duties it might become necessary for the conductor to stand on the running board and it could not have been the intention of the framers of the Act that the section would apply even to the persons in charge of the vehicle. The person referred to is a person other than the person driving or the person in charge of the motor vehicle. In the view I have taken of the meaning of the section, the conviction cannot stand.

3. The revision is allowed and the conviction is set aside and the fine, if paid, will be refunded.

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