

Public Prosecutor Vs. M. Murugesan

Public Prosecutor Vs. M. Murugesan

SooperKanoon Citation : sooperkanoon.com/797710

Court : Chennai

Decided On : Jan-20-1955

Reported in : AIR1955Mad627; 1955CriLJ1506; (1955)2MLJ34

Judge : Balakrishna Ayyar, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 2(9), 2(13) and 5

Appeal No. : Criminal Appeal No. 442 of 1954

Appellant : Public Prosecutor

Respondent : M. Murugesan

Advocate for Def. : G. Gopalaswami, Adv.

Advocate for Pet/Ap. : R. Santanam, Adv.

Disposition : Appeal dismissed

Judgement :

ORDER

Balakrishna Ayyar, J.

1. The facts are not in controversy. MDF. 455 is a bus whose laden weight is 15,900 pounds. On 11-2-1954 the driver of the bus was one Doraiswami who had a license to drive only a light transport vehicle. The police took the view that MDF.

455 is a heavy transport vehicle and prosecuted Doraiswami under Section 3(1) of the Motor Vehicles Act for driving a heavy transport vehicle without proper authority in that behalf.

Doraiswami was convicted and fined. Subsequently, the owner of the bus was proceeded against under Section 5 of the Motor Vehicles Act for permitting Doraiswami to drive that vehicle. The Stationary Sub-Magistrate, Chidambaram, acquitted the owner. He observed;

'.....The present definition of a light transport vehicle in Section 2 Clause 13 would then seem meaningless, Having regard to all aspects stated above, it seems to me that the question of axle weight and laden weight is to be considered only, in the case of a goods vehicle to determine whether it is a heavy transport vehicle or a light transport vehicle. All public service vehicles of whatever weights will come only under the classification of 'light transport vehicles.

The driver had a valid licence to drive a light transport vehicle in this case. The accused in this case has not contravened the provisions of Section 5(1) of the Motor Vehicles Act inasmuch as the driver was a person competent to drive a light transport vehicle. The accused is therefore found not guilty of the offence he is charged with and I acquit him under Section 245(1), Criminal P.C.'

The State has preferred this appeal against the order of acquittal.

2. Section 2(9) of the Motor Vehicles Act defines a heavy transport in these terms:

"heavy transport vehicle' means a transport vehicle the registered axle weight of which exceeds 19600 pounds, avoirdupois, or the registered laden weight of which exceeds 14-100 pounds avoirdupois.' It will be noticed that this definition proceeds solely on the basis of the weight of the vehicle. The definition of a light transport vehicle is given in Section 2(13) and runs as follows:

' 'light transport vehicle' means any public service vehicle other than a motor cab, or any goods vehicle other than a heavy transport vehicle or a delivery van.' If the definition of a light transport vehicle had also proceeded on the basis adopted for defining a heavy transport vehicle, i.e., the basis of weight, the difficulty that has

arisen in the present case would not have cropped up. But the Legislature adopted a different mode of definition for a light transport vehicle. When the definition is broken up, we get the following result:

A light transport vehicle means (1) any public service vehicle minus motor cabs and (2) goods vehicle minus (a) heavy transport vehicles and minus also (b) delivery vans. It will be noticed that from the category of public service vehicles' the definition does not in terms exclude heavy transport vehicles. Now, public service vehicles are what are popularly called buses and taxis, that is, vehicles which carry passengers for hire. As the definition stands the result, therefore, is that a bus or a taxi, whatever its weight may be, would be a light transport vehicle.

To exclude a bus like MDF. 455 from the category of a light transport vehicle, the definition must--if its present shape is retained--repeat the words 'or a heavy transport vehicle' immediately after the words 'other than a cab'. This requires the introduction of extra words into the definition and a Court has no power to do that. As the definitions stand, MDF. 455 falls within the definition of both a heavy transport vehicle and a light transport vehicle. The charge preferred against the owner of the bus is that he permitted Doraiswami to drive the bus when he had authority to drive only a light transport vehicle.

The answer of the owner is that MDF. 455 is also a light transport vehicle as defined in the Act, and Doraiswami had the license requisite to drive a light transport vehicle. That answer effectively meets the charge framed against the owner of the vehicle.

3. In my view, the conclusion of the learned Magistrate is right; this appeal is therefore dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com