

In Re: V. Maraiappan

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Court : Chennai

Decided On : Nov-17-1970

Reported in : 1971CriLJ868; (1971)IIMLJ80

Judge : Somasundaram, J.

Appellant : In Re: V. Maraiappan

Judgement :

Somasundaram, J.

1. Mariappan, the appellant herein, stands convicted and sentenced to pay a fine of Ra. 500, for an offence Under Section 42 (I) read with Section 123 of the Motor Vehicles Act.

2. Bus bearing Registration No. MBS 9370 is a contract carriage registered in the name of one Muthuswamy. This bus was driven by the petitioner on 13.12.1968 as a stage oar. riage. This was detected by P.W. 1. the Reserve Sub.Inspector. The petitioner in defence stated that he did not receive any each from ' any passenger and that the member? of a tourist party alone were in this bus. Not accepting his defence, the learned Magistrate has convicted him as skated above The correct, ness of this conviction is now canvassed in this appeal.

3. Murugesan (P.W. 2) who was in this bus on that day, has sworn that he paid Rs. 10 into the hands of the driver at the time when he got into the bus He has

further sworn that the driver gave him a token and that this token was collected back when the but left the place, His further evidence is that he was not a member of any party and that he was an individual passenger. There is no reason to disbelieve this evidence and his evidence establishes that this bus was used as a stage carriage as stated by the prosecution.

4. Section 42 (1) of the Motor Vehicles Act provides that no owner of a transport vehicle shall use or permit the use of the vehicle in any public place save in accordance with the conditions of a permit authorising the use of the vehicle in that place. Driving of a transport vehicle of the public road without such a permit would certainly contravene Section 42 (1) of the Act. Section 123 (I) enacts that whoever drives a motor vehicle in con. contravention of the provisions of Sub-section (1) of Section 42 Shall be punishable with fine. That the permit is to be obtained by the owner cannot make any difference and whoever drives the vehicle without a permit authorising the use of the vehicle would be punishable Under Section 123 (1) of the Act. Vide Public Prosecutor v. Jeevan A.I.R. 1941 Had 845 and State of Uttar Pradesh v. Hansraj : 1959 CriLJ248

5. The convictions are correct The sentence is not excessive. Both are con firmed. The appeal is dismissed.

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