

(1981) 01 KAR CK 0013
In the Karnataka High Court
Case No : WP. 3792/77

Abdul Jaleel

APPELLANT

Vs

S.T.A.T. and Another

RESPONDENT

Date of Decision : 21-01-1981

Acts Referred:

Karnataka Motor Vehicles Rules, 1963 — Rule 133
Motor Vehicles Act, 1939 — Section 60(3)

Citation : (1981) 2 KarLJ 117

Hon'ble Judges : K. Jagannatha Shetty, J

Judgement

On 3rd October, 1972 the petitioner's vehicle bearing registration No. MYD. 5922 was found plying with over-loading. Again on 16th October, 1973 there was another instance of over-loading. The Secretary, R.T.A., Bangalore, issued a notice calling upon the petitioner to show cause why the permit of the vehicle should not be suspended. Unfortunately, the petitioner could not be present on the date set down for consideration of his case. On 16th July, 1976, the Secretary made an order under S. 60 of the Motor Vehicles Act suspending the permit of the vehicle for 30 days. The petitioner appealed against the said order to the Karnataka State Transport Appellate Tribunal, (the Tribunal). Before the Tribunal, while challenging the order of the Secretary, he offered to compound the offence. But the Tribunal rejected that offer and dismissed the appeal. Hence this petition under Art. 227 of the Constitution.

The counsel did not dispute the factum of over-loading and in fact he cannot be permitted to dispute that offence at this stage. His argument was only in regard to the obligation to compound the offence and the failure of the Tribunal to follow the legal requirements. It was urged that the Tribunal did not consider the case in accordance with the requirements of Rule 133 of the Karnataka Motor Vehicles Rules read with S. 60(3) of the Motor Vehicles Act and thereby committed an error in not allowing the petitioner to compound the offence.

The contention in my opinion, appears to be justified. S. 60 (3) of the Motor

Vehicles Act provides for compounding the offence in relation to contravention of the conditions of permit. It states that if the Transport Authority is of the opinion that having regard to the circumstances of the case, it would not be necessary or expedient to cancel or suspend the permit if the holder of the permit agrees to pay certain sum of money, then the Transport Authority may instead of cancelling, or suspending the permit recover from the holder of the permit the sum of money agreed upon, The procedure for compounding the offence has been prescribed under Rule 133 of the Rules. Sub-rule (1) of Rule 133 requires the authority to consider the gravity of the offence committed by the permit holder and also to examine whether any such offence was committed, by him in the past. Sub-rule (2) provides that if the authority forms an opinion that it would not be necessary to cancel or suspend the permit, it may ask the permit holder to pay some money in lieu of cancellation suspension of the permit. If that offer is accepted by the permit holder, then the offence falls to be compounded.

These are the requirements of law for compounding the offence in relation to contravention of the conditions of permit including the offence of Overloading.

It may be necessary to mention that over-loading invariably is committed when there is an imbalance between the service provided and the demand of the travelling public. The imbalance may be due to the lack of co-ordination of the existing vehicular movements at peak hours, or the insufficient route permits as against the need of the travelling public. The authority empowered to suspend the permit, therefore must also examine whether the travelling public would be put to more inconvenience if the permit is suspended or cancelled. It should not be forgotten that the scheme of the Motor Vehicles Act was intended to serve primarily the interest of travelling public. The very fact that the legislature made the offence compoundable and gave a blanket discretion to the authority shows that that power is also intended to be exercised for the benefit of the travelling public and that should not be lost sight of while punishing the permit holder. The Tribunal, in this case has failed to advert to this aspect of the matter and its order, therefore, cannot be sustained.

In the result, the rule is made absolute. The order of the tribunal is set aside. The matter stands remitted to the Tribunal with a direction to restore the appeal and consider the case according to law and in the light of the observations made.