

(1997) 09 KAR CK 0083
In the Karnataka High Court
Case No : Writ Petition No. 21550 of 1994

D.S. Ramachandra Reddy

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-09-1997

Acts Referred:

Motor Vehicles Act, 1988 — Section 130, 130 (1)
Penal Code, 1860 (IPC) — Section 186, 189

Citation : (1998) ILR (Kar) 368

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : R.S. Ravi, for the Appellant; Ashok Harnahalli for R-1 and B.E. Kothari,A.G.A. for R-2 to R-5, for the Respondent

Judgement

M.F. Saldanha, J.—The petitioner before me is a Member of the Bar and he has challenged certain aspects of Section 130 of the Motor Vehicles Act, 1988 as also the corresponding provisions of Rule 139 of the Central Motor Vehicles Rule, 1989. The petitioner owns a Hero Honda Motor Cycle bearing Registration No. KA-04-H-236. On 23.7.1994 when the petitioner was riding the vehicle on Bannerghatta Road the police stopped the vehicle and asked him to produce the Driving Licence, Insurance Certificate, Registration Certificate etc. The petitioner's case is that since he was not carrying these documents with him that the police straight away issued a summons to him alleging that he has committed an offence and directed him to appear before the Traffic Court of 30.7.94. His contention is that he was unnecessarily delayed because there was a lot of confusion in so far as many persons had been collected and the police took one hour to complete the formalities but none of the persons were allowed to explain anything and furthermore, that the entire exercise was absolutely mechanical and he submits that even assuming the law was being enforced, that the manner in which it was done leaves much to be desired.

2. I shall go into the basic challenge that has been put forward by the

petitioner's learned advocate but I do consider at the very outset to record that there is undoubtedly much substance in his grievance that in situations such as this, the citizen is often intimidated, harassed, there are occasions when attempts are made to extort money or generally the citizen is left with a totally unpleasant situation. This is an area which the Government and the Police Department will have to look into seriously because I see no ground on which the officers and staff of the department cannot be specifically ordered to carry out their tasks with a degree of efficiency but more importantly, with an element of courtesy. Having said so much about the duty of the law enforcement machinery. I need to also record that the learned Government Advocate has pointed out that this is only one side of the picture in so far as there are very serious faults on the part of the offenders to the extent that he is fully justified when he points out to me that persons do not even so much disclose their names and addresses truthfully in almost 100% of the cases, not only does the offender himself start offering all sorts of incentives to the police even to the extent of thrusting money into their hands in order to get away but what is more common is that the police are intimidated and threatened even to the extent of informing them as to who the contacts and well wishers of the offender are and direct threats that the officer or constable will either be transferred or suspended. It is unfortunate that this is the order of the day and the learned Government Advocate is therefore justified in pointing out that when incidents like this take place, delays are inevitable and if the offender seeks to intimidate the law enforcement machinery that it is equally necessary for the police to take firm steps which are often categorised as discourtesy and ruthlessness I see considerable justification in what has been pointed out because he has cited numerous instances which take place almost every day wherein it has become common-place, to incite the passer-by to collect a crowd, create an unruly incident with the sole object of pressurising the police to release the person concerned. If such intimidatory tactics are used, it would hardly be justifiable to blame the police who will have to use equally stronger methods to enforce the law. In situations such as this, the correct procedure for the police officer to follow is to straight away register an offence under Sections 186/189 of the Indian Penal Code against the party who is intimidating him or inciting others to violence under the charge of interfering with the performance of duties by a public servant in the discharge of lawful duties. All said and done however, the attempt should always be made by the police to do their duty without any form of harassment, unpleasantness or discourtesy. There shall be a corresponding duty cast on the citizen to respect the law and the enforcement officers. It has also become common place for offenders to speed off when asked to stop. In all such cases, the vehicle must be apprehended with the use of wireless equipment and the driver taken into custody on the spot.

3. The learned Government Advocate brought it to my notice that as a result of interference with the Police Department, that the officers and staff are heavily demoralised. There is a whole class of nouveau riche traders and criminals, who

have ready access to politicians at different levels, who in turn intimidate law enforcement officers, threaten and bully them, get them suspended and transferred. The breakdown of the law and order machinery is directly traceable to this criminal politician nexus that has been highlighted by the Vora Commission Report and which the Prime Minister has promised to end. As a starting point, it would be desirable for the Lok Ayukta to set up a special cell, to examine any instances where public servants have been harassed or intimidated and to recommend to the High Court for appropriate action, including prosecution of such persons, regardless of their status. It is a matter of deepest regret that Bangalore is the only State Capital in the country where members of the Traffic Control Department are systematically injured and even killed by a strata of society who are impervious of the law, and the time has now come for the Courts to instill some serious discipline into this lot.

3a. The petitioner's learned Advocate advanced a challenge to Section 130(1) of the Motor Vehicles Act which prescribes that:

"The driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination. (Emphasis supplied) .

Provided that the driver may, if his licence has been submitted to, or has been seized by, any officer or authority under this or any other Act, produce in lieu of the licence a receipt or other acknowledgment issued by such officer or authority in respect thereof and thereafter produce the licence within such period, in such manner as the Central Government may prescribe, to the police officer making the demand."

Since the argument has dealt with the provisions of Rule 139 of the Central Motor Vehicles Rules 1989, the Rule in question is reproduced below:-

PRODUCTION OF LICENCE AND CERTIFICATE OF REGISTRATION:-

The driver or a conductor of a motor vehicle shall produce certificates of registration, insurance, fitness and permit, the driving licence and any other relevant documents on demand by any police officer in uniform or any other officer authorized by the State Government in this behalf, and if any or all of the documents are not in his possession, he shall produce in person an extract or extracts or the documents duly attested by any police officer or by any other officer or send it to the officer who demanded the documents by registered post within 15 days from the date of demand."

4. The petitioners learned advocate has submitted that Rule 139 draws a distinction between a driving licence and the other documents such as registration, insurance etc. and prescribes that whereas the driving licence is required to be produced on the spot or on demand, that the remaining documents can be produced within the time prescribed i.e. 15 days. His submission is that this distinction is arbitrary and that there is no rational basis for making this distinction and to that extent, this Court would have to strike

down the artificial classification and hold that the provision applies uniformly to all categories of documents including the driving licence. The second limb of the argument is that since Rule 139 clearly provides for a limitation of 15 days for production of the documents, that it goes beyond the ambit and scope of Section 130 and to this extent therefore, there is a lacuna in Section 130 as the two provisions would have to proceed on a basis of uniformity and not dissimilarity. Learned advocate points out to me that since the legislature intended to grant 15 days time for production of the documents if they are not with the driver, that Section 130 would also have to make a similar provision or conversely, he submitted that if the legislative intent was that the driving licence must be produced on the spot then the provisions of Rule 139 would become redundant.

5. The learned Government Advocate defended Section 130 and he submitted that the distinction made between the documents is perfectly valid. He points out to me that the first document namely the driving licence is something personal to the driver whereas the rest of the documents are in relation to the vehicle and the duties to be performed in relation thereto such as the need for registration, payment of taxes, insurance etc. What the learned Government Advocate has emphasised is that the legislature has insisted that the licence should be produced on the spot and that the time to produce the document which was in fact part of Section 86 of the Motor Vehicles Act of 1939 has been consciously deleted because the form of the driving licence that is prescribed under the Act also serves the purpose of identification. He points out to me that the name, address, photograph and all other details of the driver right down to his blood group are set out in the licence and that this is very necessary because irrespective of what the occasion is, the police officer must be able to get a true and correct record of these facts. He has illustrated to me that otherwise, it is extremely common place particularly with those who are involved in an offence or those who may not be possessing a valid licence to give the name and address of some other person who may or may not be traceable on who may in fact possess a licence which can be produced later on, and thereby the offender gets out of the offence. In order to obviate this, he submits that on the spot identification is necessary which can only be provided through the driving licence. The learned advocate who represents the Central Government not only reiterated this position but he also submitted that it is not by error that the time for production of the driving licence has been deleted because he submits that it is absolutely imperative for the police officer to be able to get proper identification of the driver concerned. He has also submitted that there are situations in which the police are empowered to take charge of the driving licence in question and this is the safest and most reliable means of being able to secure the presence of the offender at any later stage when required including for purposes of collecting the fine or penalty. He submits that the requirement to produce the driving licence on the spot is therefore a well thought out and a conscious move which the Government has put on the statute book with a definite purpose.

6. The question of arbitrary action or classification would depend on whether there is a rational basis for the manner in which the categorisation has been done and secondly, whether there is a nexus between the classification and the object that is sought to be achieved. As far as the first aspect of the matter is concerned, I am more than satisfied that the purpose of drawing a distinction between the driving licence which is required to be produced on the spot for identification and the remaining documents which can always be inspected or taken charge of later on, is a valid, rational and reasonable classification. There is no arbitrariness involved and the manner in which the classification has been done is perfectly justified. Secondly, the purpose that has to be achieved by laying down this provision is a very salutary one in so far as one needs to take into account the various exigencies. It is true that in the present instance the petitioner was only riding the motor cycle. There could be a more familiar situation in which an unfortunate accident has taken place in which case the liabilities are serious and far reaching and it is very necessary for the police to have an on the spot definite identification of the person responsible for the accident. There is an equally familiar class of persons namely situations in which drivers of vehicles are found involved in various offences and are required to be nabbed or apprehended on the road and as far as these are concerned, it is equally important that the police be able to have the correct and complete on the spot identification. The objective of the Government in providing for the on the spot production of the driving licence therefore has a definite rational and purposeful nexus with the purpose for which the provision which was put on the statute book and to my mind, viewed at from either of the two angles it would be impossible to find fault with it on a charge of arbitrariness.

7. The last question is as to whether there is repugnance between the provisions of Section 130 and Rule 139. The learned advocate who represents the Central Government points out to me that Rule 139 prescribes a time period of 15 days during which the documents can be produced and he draws my attention to the first part of Rule 139 which virtually reproduces Section 130(1) of the Act. His submission is that Rule 139 requires on the spot production of the licence but there can be situations in which a licence and the other documents are not with the driver because they have been seized by the police or some other authority and Rule 139 prescribes a period of 15 days within which the copies of these can be produced and the originals can be obtained and produced before the police or the designated officer. To this extent, he submits that there is no conflict between the two provisions.

8. The rules have been framed for purposes of furthering the objectives of the Act. The Section is not exhaustive and the Rule deals with references to situations in which documents which have been seized can be produced within the prescribed time. Rule 139 prescribes the time period of 15 days and also amplifies the manner in which copies or originals of the documents can be produced and on this interpretation, it is more than evident that the provisions are neither inconsistent nor conflicting with each other.

9. The Petitioner's learned advocate then advances the last submission namely that all on sort of hap hazardous Memos or summons are issued by the police in situations of the present one and he points out to me on the basis of Ex.A that only cryptic details are set out. He submits that on the ground of vagueness that the provisions that are alleged to have been transgressed have not been set out, that the notice/summons should be quashed. As far as this contention is concerned to my mind, the Court has to view the matter from a practical angle. The petitioner himself has indicated that several persons had been detained on that day and under these circumstances all that the police could do was to briefly set out the substance of the charge. The fact that the petitioner failed to produce the driving licence and the insurance certificate, the date, time and the spot where the checking was done are stated, and this to my mind is sufficient compliance with the law. In this background there is no valid reason for this Court to interfere with the issuance of Ex.A. or quash the same. Having regard to the aforesaid situation, this is not a case in which any relief can be granted. The Writ Petition accordingly fails and stands disposed of. In the circumstances of the case, there shall be no order as to costs.