

(1951) 09 MAD CK 0031

In the Madras High Court

Case No : Civil Miscellaneous Petition No. 6503 of 1951

Jerome D'Silva

APPELLANT

Vs

The Regional Transport Authority, South Kanara and Another

RESPONDENT

Date of Decision : 25-09-1951

Acts Referred:

Motor Vehicles Act, 1939 — Section 60

Citation : AIR 1952 Mad 853 : (1952) ILR (Mad) 632 : (1952) 65 LW 73 : (1952) 1 MLJ 35

Hon'ble Judges : Rajamannar, C.J;Venkatarama Aiyar, J

Bench : Division Bench

Advocate : M.C. Sridharan, for the Appellant; A.G. for the State Counsel, for the Respondent

Judgement

Rajamannar, C.J.—The petitioner is the owner of lorry No. MDX 1251, He had a public carrier permit granted by the Regional Transport

Authority, South Kanara, and he was engaged in transporting milk, firewood, timber, stores and other materials from the neighbouring villages into

Mangalore. On or about 14-4-1950, the lorry was detained on suspicion that it contained smuggled rice. The driver of the lorry was subsequently

charged by the police u/s 186 of the Indian Penal Code and Section 7 of the Essential Supplies (Temporary Powers) Act in C. C. 602 of 1950 on

the file of the Court of the Additional First Class Magistrate, Mangalore. After a full enquiry, the Magistrate discharged the accused driver holding

that the accusation was groundless. This order was passed on 6-1-1951.

2. Meanwhile, the Regional Transport Officer called upon the petitioner by a communication dated 3-11-1950 to show cause why his permit

should not be cancelled or suspended as the lorry was engaged in smuggling

food grains. The petitioner submitted his explanation, but the officer passed an order on 3-3-1951 suspending the permit for a period of three months from 1-4-1951 to 1-7-1951. Though the order of the Magistrate had been passed prior to the order of the Regional Transport Officer, evidently the Magistrate's order was not brought to the notice of the Transport authority. Subsequently, an application was filed by the petitioner to the Regional Transport Officer to reconsider his decision in view of the order of the Magistrate discharging him holding that the accusation was baseless. This application appears to have been treated as an appeal by the petitioner and was finally disposed of by the Regional Transport Authority by its order dated 31-3-1951. The appeal was dismissed. The order of the Magistrate was brought to the notice of the authority, but that tribunal thought that though the criminal court had held that there was no sufficient evidence against the accused, the circumstances of the case as found in the records of the subordinate officers of the Traffic Department showed that the owner had used the lorry for illicit smuggling of rice and therefore no interference with the orders of the Regional Transport Officer was called for. Thereupon the petitioner filed the above application praying that this Court might quash by a writ of certiorari the proceedings before the Regional Transport Authority and the order of the Regional Transport Officer above mentioned.

3. The application came on originally before Subba Rao J. On similar facts he had expressed the view in C. M. P. No. 8482 of 1950 (Mad) that though the attitude of a quasi judicial tribunal like the Transport Authority in ignoring the judgment of a criminal Court may be regrettable, it did not affect the jurisdiction of the Tribunal. There was nothing to compel the tribunal to accept the judgment, though it was not proper for a quasi judicial tribunal to ignore the well considered judgments of courts, whether civil or criminal, without giving adequate reasons. After hearing arguments for some time, the learned Judge felt a doubt as to whether his prior view was correct. He was impressed by the other aspect, namely, that when a criminal court acquitted or discharged the driver of a public carriage on the ground that he did not commit an offence, and if the Regional Transport Authority had suspended the permit in respect of that vehicle on the basis of the very same offence, it must be held that the order of the Regional

Transport Officer was based on a ground which must be deemed to be non-existent. The learned Judge therefore thought that it was a fit case for being heard by a Division Bench.

4. We have no hesitation in making it clear that a quasi judicial tribunal like the Regional Transport Authority or the Appellate Tribunal therefrom

cannot ignore the findings and orders of competent criminal courts in respect of an offence when the Tribunal proceeds to take any action on the

basis of the commission of that offence. Let us take the instance before us. The offence consists in smuggling food grains. For that same offence,

the petitioner was criminally prosecuted. He has also been punished by his permit being suspended for a period of three months. If the criminal

case against him ends in discharge or acquittal, it means that the petitioner is not guilty of the offence and therefore did not merit any punishment. It

would indeed be a strange predicament when in respect of the same offence, he should be punished by one tribunal on the footing that he was

guilty of the offence and that he should be honourably acquitted by another Tribunal of the very same offence. As primarily the criminal courts of

the land are entrusted with the enquiry into offences, it is desirable that the findings and orders of the criminal courts should be treated as conclusive

in proceedings before quasi judicial tribunals like the Transport Authorities under the Motor Vehicles Act. A similar view was expressed by a

Division Bench of which one of us was a member in--"C. M. P. No. 3367 of 1948 (Mad)". No doubt that case arose under the provisions of the

Madras Rationing Order, but the principle of that decision applies to the facts of this case also. In that case the petitioner was an authorised dealer

in rice. He was charged in the criminal court for having sold 30 measures to a person to whom he was not entitled to sell.

The Rationing Officer on the same ground purported to cancel the authorisation in his favour. The criminal case had not been disposed of when the

Rationing Officer passed an order cancelling the authorisation, but he was aware that the case was pending. It eventually turned out that the

petitioner in that case was discharged by the Magistrate, because on the evidence on record, no prima facie case was made out. There was a

revision petition to this court, but this Court also took the view that there was no justification for setting aside the order of discharge. On these

facts, it was held by this Court that the Rationing Officer should not have passed final orders till the disposal of the criminal case and as his order

cancelling the authorisation of the petitioner was passed on the sole ground that the petitioner had sold 30 measures of rice to an unauthorised

person and that ground was found to be wrong, the order cancelling the permit was also void. It was observed that the Rationing Officer had no

power to hold contrary to the order of a competent Magistrate, that an offence which was held by the Magistrate not to have been proved had

been established to his satisfaction.

5. The position then would be this. If there is a conviction by a competent criminal court, that would furnish conclusive ground for any penal action

by the Transport Authorities. Equally, if the criminal prosecution ended in a discharge or acquittal of the accused and that event happened before

the order of any Road Transport Tribunal, then such Tribunal would not have the power to go behind the final order of a competent criminal court.

If at the time the Road Transport Tribunal disposes of any application or before such tribunal passes an order no prosecution has been launched,

then of course it is not incumbent on the tribunal to await a criminal prosecution. But if a prosecution has actually commenced and that prosecution

is in respect of the same offence by reason of which the Transport Authority proposes to take drastic action against the accused in the criminal

case, then, it is desirable that the Transport Authority should await the decision of the criminal Court. This procedure would avoid the spectacle of

two departments of the Government proceeding on contradictory lines to the annoyance and hardship of the citizen.

6. In the case before us, the order of the Regional Transport Officer cannot be sustained, especially as it was long after the order of the Magistrate

discharging the petitioner. In any event, there is no justification for the Regional Transport Authority to disregard the order of the Magistrate in

disposing of the application of the petitioner. The orders of both the Regional Transport Officer and the Regional Transport Authority are hereby

quashed. The petitioner will be entitled to the costs of this petition which we fix at Rs. 150/-.