(1965) 09 P&H CK 0012

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 352 of 1964

Mohan Lal Gurdial Dass APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 16-09-1965

Acts Referred:
Punjab Passengers and Goods Taxation Act, 1952 — Section 17(1), 8

Citation : AIR 1966 P&H 261 : (1966) 1 ILR (P&H) 757

Hon'ble Judges : D. Falshaw, C.J;Mehar Singh, J

Bench : Division Bench

Advocate : J.S. Wasu, for the Appellant; J.N. Kaushal, General and M.R. Agnihotri, for the Respondent

Final Decision : Allowed

Judgement

Mehar Singh, J.—The appellant is firm Mohan Lal Gurdial Das, truck-owners of Ganga Nagar in Rajasthan State It has a permit for its vehicle for Bikaner Region of Rajasthan State, and that has been countersigned by the State Transport Authority of Delhi State and the Regional Transport Authority of Ambala Region in Punjab State. The appellant-firm transports goods from Rajasthan State to Delhi State pas sing through Hissar and Rohtak Districts of Punjab State. Its vehicle is registered at Ganga Nagar in Rajasthan State according to the provisions of the Motor Vehicles Act. 1939 (Act 4 of 1939), and the rules thereunder. The appellant-firm has averred in its petition under Article 226 of the Constitution that although under the terms of the permit it can transport goods from or to any place within the State of Punjab, it is only passing through the areas of Punjab State while transporting goods from Ganga Nagar to Delhi without loading or unloading in areas of Punjab State. This is ''tat denied by the respondents in the return, but the position taken in the return is that, the appellant-firm because of the counter-signature of the Regional Transport Authority of Ambala on its permit, becomes entitled to carry goods to and from Punjab State. This is not denied by the appellant-firm. What is specifically stated by it in its petition is that it does not do so. To this last statement there is no reply in the return that it does so.

2. On October 10, 1963, a complaint was filed against the appellant firm u/s 8 of the Punjab Passengers and Goods Taxation Act, 1902 (Punjab Act 16 of 1952) hereinafter to be referred as ''the Act'', on the ground that the permit of the appellant-firm was countersigned for Ambala Region with effect from December 13. 1961. up to November 14, 1966, but its vehicle was not found registered for goods tax under the Act. Section 8 of the Act says that ''''No owner shall ply his motor vehicle in the State unless he is in possession of a valid registration certificate as provided hereinafter;" and Section 17(1)(c) of the Act provides for punishment for the offence of wilfully railing to apply for registration H is evident that u/s 8. registration certificate is requisite when owner of a motor vehicle plies it in Punjab State. If he plies his motor vehicle without such registration, he is punishable u/s 17(1)(e). Registration u/s 8 as is dear from Sub-section (3) of Section 9 of the Act. is apart from registration of the motor vehicle under Act 4 of 1939. so that registration u/s 8 is only for the purposes if the Act

The preamble of the Act says that it is an Act to provide for levying a tax on passengers and goods carried be road in certain motor vehicles The Act is therefore, for levy of tax on carriage of passengers and goods in certain motor vehicles Registration u/s 8 of the Act is also of such motor vehicles, that is to say motor vehicles used for carriage of passengers and goods. The present case is only concerned with the motor vehicle of the appellant firm which is a goods carrier. The question then is what is the meaning of the word ''ply'' in Section 8. In The Queen v Justices of Ipswich (1889) 5 TLR 405 Lord Cole ridge. C. J. said " ''plying'' certain seem ed to imply plying for hire Such was the example given by Johnson in his definition and though the word might sometimes he used in other senses, that was its first and natural meaning" Berry Mahapatra Vs. Emperor, Courtney Ferrell. C. J. observed that "the word ''ply'' has exactly the same meaning as to ply for hire, that is to say it means that the person driving a vehicle stops to take up or put down passengers for reward A person merely driving his vehicle cannot he said to be plying the vehicle" A carriage out to pick up passenger.-- plies for hire: Clarke v. Stanford (1871) 6 QB 357, and Allen v. Tunbridge (1871) LR 6 CP 481 This is with regard to motor vehicles or carriages for passengers and where a motor vehicle is for carriage of goods and the word used is ''ply'' with regard to it as in Section 8 of the Act it obviously means when the motor vehicle is out to load or unload goods for carriage for reward. It is in this manner that the meaning of the word ''ply'' is to be taken as used in Section 8 of the Act.

3. The appellant-firm, is, therefore, when it is prosecuted u/s 17(1) (e) of the Act, being prosecuted for loading or unloading of goods for carriage in this State. But the complaint, of which copy is Annexure ''A'' with the petition of the appellant-firm, makes no such allegation against the appellant-firm that its motor vehicle, not having registration u/s 8 of the Act, has been plying in this

State in the sense that it has been loading or unloading goods for reward in this State. The complaint does not disclose the essential allegation of fact which is the basis of the alleged offence said to have been committed by the appellant-firm and on this ground it must be quashed, for, on the face of it, it does not disclose the offence in regard to which the appellant-firm is being prosecuted.

4. The learned Single Judge dismissed the petition of the appellant-firm being of the view that u/s 3(3) of the Act. even though the appellant-firm''s goods carrier vehicle merely passes through the territory of the Punjab State bringing goods from one State and carrying it out to another State, it still is liable to lax under that provision. That view has been overruled by a Division Bench, of which the judgment was delivered by my Lord, the Chief Justice, in Basant Singh v. State of Punjab 1965 07 P LR 208. So the basis upon which the learned Single Judge proceeded to dismiss the writ petition of the appellant-firm no longer subsists. It has already been shown that the complaint against the appellant-firm on the lace of it discloses no offence u/s 17(1)(e). read with Section 8, of the Act.

5. In consequence, this appeal is accept ed, the order of the learned Judge is reversed, and allowing the writ petition of the appellant firm, the complaint, of which the copy is Annexure ''A'', against it under Sections 8 and 17(1) (e) of the Act, is quashed. There is no order in regard to costs, because at the time the learned Judge gave decision in the writ petition of the appellant-firm the prevailing view was that approved by the learned Judge, which has since been overruled by the decision in Basant Singh''s case. 1965-07 Pun LR 208

6. I agree.

