(1981) 02 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 14157 of 1978

Muthaya Moily APPELLANT

Vs

Dakshina Kannada RESPONDENT

Date of Decision : 05-02-1981

Acts Referred:

Citation : AIR 1981 Kar 244 : (1981) 1 KarLJ 521

Hon'ble Judges : K. Jagannatha Shetty, J

Bench : Single Bench

Advocate : R.S. Hegde, for the Appellant; L.M. Pandurangaswamy, Govt. Pleader, for the Respondent

Judgement

1. The petitioner owns a lorry bearing No. MYG 6269. The registration certificate of the vehicle was suspended for three months by the Regional Transport Authority, Dakshina Kannada District (The R.T.O.) who also called upon the petitioner to pay tax in respect of the vehicle for the period from 1-10-1975 to 31-3-1976. The petitioner''s appeal to the Deputy Commissioner for Transport against the said action was dismissed. Hence this writ petition.

2. The registration certificate was suspended on the ground that the vehicle was found carrying without permit 90 quintals of rice with bogus registration No. MYG 6357. The Petitioner did not give explanation to the show cause notice issued against him. Perhaps, be was busy before the Criminal Court. He was also prosecuted for the same offence in C. C. No. 835 of 1975. But the Additional Munsiff and J. M. F. C., Coondapur, who tried the case, acquitted the petitioner for want of proof of commission of the offence.The acquittal was recorded on the ground that the prosecution failed to prove that the petitioner used his lorry to transport with out permit 90 quintals of rice.

3. The order of acquittal has become final since no appeal Was preferred by the State. -

4. The decision of the Criminal Court acquitting the petitioner was rendered on

28-4-1978, that is, after the registration certificate was suspended by the R. T. O. Counsel for the petitioner wants now to take advantage of the decision of the Criminal Court to invalidate the action taken by the R. T. O. He merged that the same set of facts constituting the alleged offence before the Criminal Court was the foundation for action by the R. T. O. and since the petitioner was acquitted in the former, the penalty imposed by the latter cannot be sustained.

Counsel appears to be fight in his submission. It is a well established principle the at the decision of a Civil or Criminal Court of competent jurisdiction in respect of an offence shall be binding on quasi judicial authorities in matters pertaining to identical question. Since the petitioner was acquitted by the Criminal Court, the order of the R. T. O. suspending the registration certificate ''of the vehicle for the same offence cannot now be sustained.

5. In regard to legality of the demand of tax from 1-10-1975 to 31-3-1976, counsel for the petitioner is equally on terra firma. It is not in dispute that the vehicle in question was seized by the police on 22-9-1973 and was released only on 5-2-1976. During that period, the vehicle was admittedly in the custody of the police. It is as plain as pikestaff that it could not be made use of by the petitioner. He could not, therefore, be held liable to pay tax for that period on the I ground that he has not intimated the nonsense use of the vehicle. The petitioner, however, is liable to pay tax for the period from 5-21976 to 31-3-1976 during which he was in possession of the vehicle.

6. In the result, the rule is made absolute. The older of the R. T. O. dated 21-1-1976 suspending the registration certificate of the petitioner''s vehicle No. MYG 6269 as confirmed by the appellate authority is quashed. The tax demanded for the period from 1-10-1975 to 31-3-1976 in respect of the said vehicle is also quashed with liberty to the R. T. O. to recover the tax for the period from 5-2-1976 to 31-3-1976 and onwards.

7. In the circumstances, I make no order as to costs.

8. Petition allowed.

