
(1964) 10 KAR CK 0004
In the Karnataka High Court

P. Channappa

APPELLANT

Vs

Mysore Revenue Appellate Tribunal and Others

RESPONDENT

Date of Decision : 06-10-1964

Acts Referred:

Constitution of India, 1950 — Article 226, 311
Penal Code, 1860 (IPC) — Section 148, 324

Citation : (1966) CriLJ 265

Hon'ble Judges : K.S. Hegde, J; Ahmed Ali Khan, J

Bench : Division Bench

Judgement

K.S. Hegde, J.—In this petition under Article 226 of the Constitution, the petitioner prays that this Court may be pleased to quash the order passed by the Regional Transport Authority, Mandya, in Subject No. 27(d) dated 27-5-1961 suspending the stage carriage permit of the bus bearing No, MYU 3355 and the confirmation of that order, subject to reduction of period of suspension, by the Mysore State Transport Appellate Tribunal, Bangalore in Appeal No. 209 of 1961 dated 4-9-1961 and the further confirmation of the said order, again subject to further reduction of period of suspension, by the Mysore Revenue Appellate Tribunal, Bangalore, in Appeal No. 956/61 (M. V.).

2. The material facts of the case are as follows: It is alleged that Bus bearing No. MY 3355, owned by the petitioner, was found carrying on 30-3-1961 as many as 84 passengers, while its seating capacity was only 36. In that connection, the conductor of the bus was prosecuted in C. C. No. 2040/61 on the file of the City Magistrate, Mysore. The learned Magistrate acquitted him holding that the charge levelled against him was not proved. He disbelieved the prosecution evidence as regards the alleged overloading. The said order of acquittal was made on 11-7-1961. The R. T. A. Mandya, proceeded against the petitioner in subject No. 27(d) dated 27-5-61 on its file in respect of the alleged overloading. It came to the conclusion that the allegation of overloading of the bus in question is true. Accordingly, it suspended the permit of the bus in question for a period of seven months (from 1-6-61 to 31-12-61).

Aggrieved by that order of the R. T. A. the petitioner went up in appeal to the State Transport Appellate Tribunal. In appeal, the State Transport Appellate Tribunal confirmed the findings of the R. T. A. as regards the alleged overloading, but reduced the period of suspension from 7 months to 4 months. A second appeal was taken to the Mysore Revenue Appellate Tribunal, which in its turn agreed with the Tribunals below on the question of overloading, but further reduced the period of suspension to three months. Thereafter, this writ petition was filed challenging the legality of the orders passed by the R. T. A., the State Transport Appellate Tribunal and the Revenue Appellate Tribunal.

3. This petition came up for hearing on 23-9-1964. The respondents were not represented in the case. After hearing Sri S. J. Srinivasan, the learned Counsel for the petitioner, we thought that this case raises an important question of law and hence we requested Sri E. S. Venkataramiah to appear as an amicus curiae and assist us. He was good enough to accede to our request and we are thankful to him for his useful assistance. This day we have heard both Shri S. J. Srinivasan and Sri E. S. Venkataramiah at length. After hearing them, we have come to the conclusion that the orders impugned in this petition ought to be quashed. We shall presently state our reasons for reaching that conclusion.

4. As mentioned earlier, the question, whether the bus in question was overloaded on 30-3-1961 was a question that had been gone into in C. C. No. 2040/61 on the file of the City Magistrate, Mysore. After weighing the evidence adduced in the case, the City Magistrate came to the conclusion that the prosecution case is on acceptable and acquitted the accused. The acquittal in question was not on any technical ground. The question for decision is, whether after that decision, it was open to the Tribunals constituted under the Motor Vehicles Act to go into the question of the truth or otherwise of the charge of overloading over again and reach a conclusion contrary to the one reached by the Criminal Court. Is it just and fair for those Tribunals to sit on judgment over the ordinary courts of the land?

5. A somewhat similar question came up for consideration before a Bench of the Madras High Court, consisting of Rajamannar C. J. and Venkatarama Iyer, J. in *Jerome D'Silva Vs. The Regional Transport Authority, South Kanara and Another*, . Those eminent Judges came to the conclusion that it was impermissible for the R. T. A. to reject the conclusion reached by the Criminal Court and come to a conclusion contrary to that reached by the Criminal Court. This is what their Lordships observed in that case:

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.

It may be noted that in the case before their Lordships, the Criminal Court had come to a positive conclusion that the prosecution case was not made out. The acquittal before the Criminal Court was not on any technical grounds such as want of sanction. This position was made clear by the same High Court in *Malabar Roadway Service, Kozhikode Vs. State of Madras and Others*, .

6. The same view was taken by this Court in *Ekambararn v. General Manager and Com petent Authority, M.G.R.T.D.* 1961 Mys LJ 1066 : AIR 1962 Mys 84. In that case this Court laid down that:

Normally if a person holding a civil post is found to have committed an offence punishable under the Penal Code, he should in the first instance be prosecuted in a criminal Court for that offence. It may be that it is not always necessary to resort to that course since the disciplinary authority would also have a power to make a departmental enquiry into that charge al-though it is punishable by a criminal court. But if the Department in which the petitioner was holding the civil post chooses to have that charge enquired into by the criminal Court and the criminal Court enquires into it and acquits the civil servant of the charge which had been framed against him, it would be extremely improper for any disciplinary authority to enquire again into that charge and hold him guilty on the very evidence which was produced before the criminal Court and which is disbelieved.

This view was reiterated again by this Court in *Mainuddin Alisab Kazi v. State of Mysore* 1964 (1) Mys LJ 188. The decision in 1961 Mys LJ 1066 : AIR 1962 Mys 84 being a Bench decision is binding on us. The position of law has been elaborately considered by the Madras High Court in *The Management of the Radhakrishna Mills Ltd., Coimbatore Vs. The Presiding Officer, Labour Court, Coimbatore and Another*, . That was a case where a work-man was chargesheeted for having assaulted and for causing injuries to an officer or the company. The workman was also prosecuted u/s 324 read with Section 148 of the Indian Penal Code for causing injuries to the officer. The worker was convicted of the offence. The management which held a domestic enquiry came to the conclusion that charge levelled against the work-man was proved. But no final action was taken against the concerned workman in view of pendency of some adjudication proceedings before Industrial Tribunal. Subsequently the

workman was acquitted in appeal by the criminal Court. After the disposal of the Industrial dispute, with-out considering the acquittal secured by the workman, the management dismissed him from service for the alleged misconduct mentioned above. The propriety of the action of the management in dismissing the workman was referred to adjudication. The labour Court came to the conclusion that the action of the management was not bona fide. It also held on merits that the charge levelled against the concerned worker was not proved. The decision of the Labour Court was challenged by means of a writ petition in the High Court. Dismissing the writ petition, the High Court held that the action of the management in dismissing the concerned workman after his acquittal by the criminal Court must be considered to be mala fide. In the course of the judgment, the learned Judge examined the various decisions bearing on the point

7. Sri E. S. Venkataramiah, arguing in sup-port of the orders impugned in this petition, tried to seek support from the decision of the Supreme Court in State of Andhra Pradesh Vs. Sree Rama Rao, . In our judgment, this decision does not bear on the point under consideration. Therein, their Lord-ships only considered the nature of the proof required in a criminal case tried before a criminal Court and that required in a disciplinary enquiry under Article 311 of the Constitution. The decision in question did not consider the question of law presented for our decision in this case.

8. Similarly, the decision of the Supreme Court in The Delhi Cloth and General Mills Ltd. Vs. Kushal Bhan, does not bear on the point under consideration. Therein the question that fell for decision was, whether the employer was competent to hold a domestic enquiry on a charge, which is also the subject matter of a criminal proceeding.

9. As seen above, it is laid down by high authority that when a particular charge had been enquired into and found against by a competent criminal Court, that charge cannot be again enquired into by Tribunals constituted under other enactments, so long as the acquittal before the Criminal Court is not on any technical ground, but on merits.

10. In the result, we allow this petition and quash the impugned orders, viz: the order passed by the 1st respondent in Appeal No. 956/61 (M.V.), of the 2nd respondent in Appeal No. 209/61 and of the 3rd respondent in Subject No. 27(d) of 1961. In the circumstances of the case, we make no order as to costs.