

(1999) 10 AP CK 0024
In the Andhra Pradesh High Court

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APPELLANT

Vs

S.H.O. and Others

RESPONDENT

Date of Decision : 12-10-1999

Acts Referred:

Motor Vehicles Act, 1988 — Section 52

Citation : (2000) 1 ACC 543

Hon'ble Judges : V. Eswaraiah, J;B. Subhashan Reddy, J

Bench : Division Bench

Judgement

1. This writ petition raises a very important point for consideration. It is a taken up case on the basis of paper reports dated 7.9.1999 containing a mutilated car on account of the blast of the liquid petroleum gas cylinder placed therein used as a fuel in place of petrol. If it is a solitary incident of a blast, it may be called as an accident. But, it is not so. At some other places, similar incidents have been reported. Apart from the safety point which has to be decided on factual side, the prime point is the legality or otherwise in the user of the gas cylinder as a fuel to run the automobile vehicles.

2. Mr. B. Adinarayana Rao, learned Standing Counsel for the Central Government and Mr. Sarvabhouma Rao, learned Counsel appearing for the 9th respondent submit that Section 52 of the Motor Vehicles Act, 1988 is not applicable for the conversion of the liquid petroleum gas into a fuel source. According to the learned Counsel, while for substitution of other fuel sources in place of petrol/diesel, application for conversion and permission for the same is necessary by the authority, for the conversion of liquid petroleum gas as a fuel source in place of petrol/diesel, no such necessity is contemplated by Section 52 of the Motor Vehicles Act.

3. Mr. D. Prakash Reddy, the learned Additional Advocate-General has appeared and assisted the Court. He submits that second proviso to Section 52(1) of the Act enables the conversion of sources of fuel from petrol/diesel with battery, compressed natural gas, solar power or any other fuel or source of energy and

that liquid petroleum gas cannot be used as a source of fuel and no permission for conversion can be granted in that regard.

4. This argument of the learned Advocate-General is diametrically opposite to that of the learned Central Government Standing Counsel for the 9th respondent. Mr. M.R.K. Choudhary, the learned Senior Counsel who also intervened in the proceedings, supported the argument of the learned Additional Advocate-General.

5. On our requisition, the learned Additional Advocate-General has placed before us the action taken by the State Government regarding the permission for user of liquid petroleum gas as a fuel to run the automobile vehicles and from the records produced by him, it is evident that the Ministry of Petroleum and Natural Gas, as also the Ministry of Surface Transport, Government of India, has made it clear to the State Government in response to the latter's letter, that permission to run the automobile vehicles with liquid petroleum gas cannot be granted for the reason that there is a specific prohibition contained in Liquid Petroleum Gas (Restriction of Use) Order, 1974.

6. Mr. Sarvabhouta Rao, the learned Counsel, relied upon the decision of the Supreme Court in M.C. Mehta Vs. Union of India (UOI) and Others, , as also the order passed by a learned Single Judge of Karnataka High Court, dated 15.12.1998 in W.P. No. 34628-70/98 in support of his contention that liquid petroleum gas can be used as a source of fuel without any hindrance and without seeking any permission from the authority.

7. It is apt to extract Section 52(1) of the Motor Vehicles Act, 1988, which reads:

52. Alteration in motor vehicle--(1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are no longer accurate, unless-

(a) he has given notice to the Registering Authority within whose jurisdiction, he has the residence or the place of business where the vehicle is normally kept, as the case may be, of the alteration he proposes to make; and

(b) he has obtained the approval of that Registering Authority to make such alteration:

Provided that it shall not be necessary to obtain such approval for making any change in the unladen weight of the motor vehicle consequent on the addition or removal of fitting or accessories, if such change does not exceed two percent of the weight entered in the certificate of registration. Provided further that modification of the engine, or any part thereof, of a vehicle for facilitating its operation by a different type of fuel or source of energy including battery, compressed natural gas, solar power or any other fuel or source of energy other than liquid petroleum gas shall be treated as an alteration but that shall be subject to such conditions as may be prescribed.

From a reading of second proviso to Section 52(1), it is clear that the words

"other than liquid petroleum gas" falls outside the scope of conversion of source of fuel and only battery, compressed natural gas, solar power or any other fuel of source of energy other than liquid petroleum gas can be permitted as an alteration. This prohibition for conversion of liquid petroleum gas as fuel in place of petrol/diesel stares at us and what is more, the same is in consonance with the Control Order. Clause (3) of the Liquid Petroleum Gas (Restriction of Use) Order, 1974, which reads:

No person shall use or permit the use of liquefied petroleum gas for automotive purpose or for any purposes ancillary thereto.

8. From the reading of above two provisions, it is crystal clear that liquid petroleum gas cannot be used as a fuel for running the automobile vehicles. The Supreme Court judgment cited, has got no application to the facts of this case for the reason that compressed natural gas is one which is available for conversion under second proviso to Section 52(1) of the Motor Vehicles Act and is not one prohibited under the Liquid Petroleum Gas Order, 1974. The Karnataka High Court judgment, apart from not stating reasons for its finding, is also an order per incuriam, for the reason that it did not take into consideration the Liquid Petroleum Gas (Restriction of Use) Order, 1974 and particularly Clause (3) thereof, which has been extracted above.

9. The result of the above discussion is that as on this day, there is no law permitting the user of liquid petroleum gas as a fuel to run the automobile vehicles. In the circumstances, there shall be an injunction restraining the user of liquid petroleum gas as a fuel by anybody to run any automobile vehicle/s and the Director-General of Police, Andhra Pradesh, Commissioner of Transport State of Andhra Pradesh, as also the Commissioner of Civil Supplies, State of Andhra Pradesh, are directed to see that the above injunction order is implemented by themselves and also by their subordinates strictly and scrupulously.

10. The writ petition is allowed accordingly. No costs.