
(1962) 04 MAD CK 0038
In the Madras High Court
Case No : Writ Application No. 73 of 1962

R.A. Natarajan

APPELLANT

Vs

State Transport Appellate Tribunal and Another

RESPONDENT

Date of Decision : 06-04-1962

Acts Referred:

Motor Vehicles Act, 1939 — Section 60(3)

Citation : AIR 1964 Mad 489 : (1964) CriLJ 559

Hon'ble Judges : Kailasam, J;Ganapatia Pillai, J

Bench : Division Bench

Advocate : V.V. Raghavan, for the Appellant;

Final Decision : Dismissed

Judgement

Ganapatia Pillai, J.—This is an appeal against the judgment of Srinivasan j. dismissing an application for a writ of certiorari to quash the order of the Regional Transport Authority, Vellore, which was confirmed by the State Transport Appellate Tribunal, The appellant is a bus operator in North Arcot Dt. and on a particular date it was found that one of his buses was overloaded. The appellant was charged with contravention of the rules and an enquiry was held by the Regional Transport authority in which it came to the conclusion that the appellant was guilty of the offence of overloading his bus and as a consequence the permit held by the appellant was suspended for a period of one month. Against that order the appellant preferred an appeal to the State Transport Appellate Tribunal, which confirmed the order of the lower authority.

After the appeal was dismissed by the tribunal the appellant applied to it offering to compound the offence as provided in S. 60(3) of the Motor Vehicles Act. The Tribunal refused to give permission for compounding. Against that order the writ petition was filed. Srinivasan J. took the view that the provisions of S. 60(3) did not create a right in the appellant to demand compounding: of an offence under the Motor Vehicles Act and rules, but it was merely an enabling provision giving a discretion to the Tribunal authorities in. suitable cases to permit the

compounding of offences which would entail the punishment of suspension of the permit. The learned Judge also took the view that the Appellate Tribunal did not fail to exercise jurisdiction vested in it by law merely because it rejected the offer of compounding which was made sometime after the appeal was disposed of by the Appellate Tribunal.

2. Mr. Raghavan, learned counsel appearing for the appellant mentions two points before us. The first is that the learned Judge was wrong in his view of the scope and effect of Section 60 (3) of the Motor Vehicles Act. We do not agree. The learned Judge specifically pointed out that the provision was merely enabling in character and did not confer any right in the offender to demand compounding. We respectfully agree with that view. The next contention of Mr. Raghavan was that the offer to compound the offence could be made at any time to the Regional Transport authority or to the State Transport Appellate Tribunal, and merely because the offer was made after the appeal was disposed of, the Appellate Tribunal should not have refused to entertain the request for compounding. Srinivasan, J. took the view that this did not amount to a refusal to exercise a jurisdiction on the part of the Appellate Tribunal. We are inclined to agree with that view, because in its very nature the offer to compound must be made before the Tribunal makes up its mind on the question at issue? in order that the offer might be considered in a proper setting. The offer to compound could be made to the Appellate Tribunal as well. But we see no justification for holding that the appellant was entitled to hold back the offer till the appeal is disposed of and then call upon the Appellate Tribunal to exercise its jurisdiction to direct commission of the offence. In one sense after the appeal is disposed of, the Appellate Tribunal is functus officio.

The proper stage at which the offer to compound must come, is the stage when the matter is under investigation either by the first authority or at least when the appeal was being heard by the appellate authority. Thereafter it would not be correct to hold that the authorities would be bound to entertain the offer for compounding. This is not therefore a case where the Appellate authority refused to exercise a jurisdiction vested in it. Even otherwise, Srinivasan J. was satisfied on the merits of the case, having regard to the history-sheet of the appellant, that appellant did not deserve the concession of composition. The appeal is therefore dismissed.