(1964) 08 GUJ CK 0011

In the Gujarat High Court

Case No : Criminal Appeal No. 1124 of 1963

Shah Hiralal Himatlal — APPELLANT

Vs

Bansilal Changanlal and Another — RESPONDENT

Date of Decision : 19-08-1964

Acts Referred:
Bombay Municipal Boroughs Act, 1925 — Section 193, 61, 94

Citation : AIR 1965 Guj 318 : (1965) CriLJ 761 : (1966) 7 GLR 118

Hon'ble Judges : V.B. Raju, J

Bench : Single Bench

Advocate : N.V. Karlekar, for the Appellant; B.S. Kapadia and H.M. Choksi, Govt. Pleader, for the Respondent

Judgement

(1) This is an appeal against an acquittal. One Bansilal introduced goods into the limits of the Municipality of Baroda and represented that the goods were taken out of the municipal limits. He was, therefore, given what is called a transit pass, but he did not return transit pass to show that he had taken the goods out of the municipal limits of Baroda. The contention was that he was, therefore, liable to pay the octroi duty and that as he has not done so he was liable to be prosecuted u/s 193A of the Bombay Municipal Boroughs Act.

(2)The learned Magistrate acquitted Bansilal on various grounds. But the acquittal can be justified on another ground, namely that octroi is a duty on goods which a person is liable to pay when he brings goods into or receives goods from beyond the octroi limits of a municipal borough any animal or goods on which octroi id payable. The words "a person bringing into or receiving from beyond the octroi limits of a municipal borough " etc, used in section 94 of the Bombay Municipal Borough Act mean that the octroi is payable only at the time when a person brings into or receives beyond the octroi limits the goods and it is not payable afterwards, even if the octroi be not demanded at the time when the person brings goods into or receive the goods from beyond the octroi limits. Section 61(n) of the said Act allows the Municipality to frame bye-laws for fixing the octroi limits and stations and regarding the system under which refunds are to be made. But it does not make a reference to transit passes. There is no provision for transit passes in the Bombay Municipal Boroughs Act and the system of transit passes is beyond the jurisdiction of the Municipality. If any goods are introduced for the purpose of being exported, octroi should be collected as soon as they are introduced and the amount should be refunded when they are taken out of the octroi limits. The system of transit passes has not been introduced because Q may introduce goods into the octroi limits may take a transit pass on the false representation that the goods are meant t leave the octroi limits but Q may be a person too poor to pay the octroi duty afterwards. That is why octroi duty must be paid before the Municipality loses control over the goods. In this view, the system of transit passes is not authorised by the provision of the Bombay Municipal Boroughs Act and the liability to pay octroi does not arise because subsequent to the time of introduction.

(3) The acquittal is, therefore, right and the appeal is dismissed.

(4) Appeal dismissed.