(1968) 04 AP CK 0007

In the Andhra Pradesh High Court

The Public Prosecutor APPELLANT

Vs

Hindustan Motors Ltd. RESPONDENT

Date of Decision : 10-04-1968

Acts Referred:
Criminal Procedure Code, 1898 (CrPC) — Section 4

Citation : AIR 1970 AP 176 : (1970) CriLJ 659

Hon'ble Judges : Ananthanarayana Ayyar, J

Bench : Single Bench

Judgement

Ananthanarayana Ayyar, J.—The Motor Vehicles Inspector, Nalgonda, filed a petty case charge-sheet against Hindustan Motors Ltd,, Uttara Para, Hugh district, West Bengal, alleging that on 30-10-1965 near Korlapad on the National Highway No. 9, he (the Motor Vehicles Inspector) had found eleven chassis being taken along the public road without having paid any tax on any of the chassis and that, therefore, the accused committed an offence u/s 3 of the Andhra Pradesh Motor Vehicles Taxation Act of 1963 read with as. 4 and 11 of the said Act.

2. It was admitted by the accused that the eleven chassis were taken without bodies on the public road towards Madras without payment of tax in Andhra Pradesh State. But it was pleaded that the chassis were taken to Madras for purpose of building bodies and for ultimate sale thereafter. Section 3 of the Andhra Pradesh Motor Vehicles Taxation Act of 1963 runs as follows:

The Government, by notification from time to time, direct that a tax shall be levied on every motor vehicle used or kept for use in a public place in the State.

The learned Magistrate held as follows:

In my opinion the said chassis were neither ''used or kept for use in a public place in the State'' nor the respondent is stage. for prosecution for the alleged contravention of the above sections.... The chassis are neither used nor kept for use in this State except that they are admittedly passing through this State. Hence the respondent is discharged....

3. The learned Public Prosecutor treated the judgment of the learned Magistrate as judgment of acquittal though the learned Magistrate stated that he discharged the accused. The learned Public Prosecutor accordingly filed this appeal against the acquittal.

4. In the charge-sheet, the Motor Vehicles Inspector has stated that the accused is liable for punishment under Rule 17 of the Andhra Pradesh Motor Vehicles Taxation Rules. This rule runs as follows:

Whoever commits breach of any provision of these rules shall be punishable with fine which may be extended to Rs. 50.

5. In view of the maximum sentence which can be awarded under this rule, the case is a summons case as defined under Sub-section (v) of Section 4 of the Code of Criminal Procedure. The learned Magistrate obviously followed the summons procedure. Consequently, there cannot be any discharge in the case and what the learned Magistrate mentioned as "Discharge" was obviously a mistake in expression, for "Acquittal" of the accused. Section 262, Criminal P. C, lays down the procedure for trial of summons cases even in summary trial. It provides that: the procedure prescribed for summons procedure shall be followed in summons case. So I agree with the learned Public Prosecutor in treating the judgment of the lower Court as judgment of acquittal.

6. In an unreported judgment D/-6-10-1967, in W.P. Nos. 1456, etc., of 1965 and 66, etc., of 1966 (Andhra Pradesh) of this High Court, it has been held that the chassis which ply on the public roads of Andhra Pradesh State being taken on public road by a dealer for purpose of building bodies and ultimate sale to others means use on public roads in the State and that the vehicle is liable to tax. This is a direct decision on the question concerned in the present case. Therefore, the accused has committed an offence mentioned in the charge-sheet and is liable for punishment under Rule 17 of the Andhra Pradesh Motor Vehicles Taxation Rules.

7. I, therefore, set aside the acquittal of the accused and convict the accused and sentence him to pay a fine of Rs. 50. Time for payment, two weeks.