

The Municipal Board, Mainpuri

Vs

Kanhaiya Lal

Criminal Appeal No. 88 of 1958

(P. B. Gajendragadkar, K. Subba Rao JJ)

06-10-1959

JUDGMENT

SUBBA RAO J. –

This appeal raises the question of true interpretation of s. 128 of the U. P. Municipalities Act, 1916, (hereinafter called the Act). The facts lie in a small compass and they are not in dispute.

The State Government issued a notification defining the municipal limits of the town of Mainpuri. Under this notification the goods-shed of the Mainpuri railway station is included within Mainpuri municipal limits, but the rest of the station is excluded therefrom. A motorable road connects the station with the main inhabited area of the town. The Municipality fixed a toll-barrier on this road between the railway goods-shed and the inhabited area of the town. The Mainpuri Electric Supply and General Mills Co. Ltd., Mainpuri, supplies electricity to Mainpuri town. It purchases coal from places outside Mainpuri and receives the same in railway wagons, which are unloaded and kept in the goods-shed. The respondent owns a truck. He was engaged to carry the coal from the goods-shed to the premises of the electric Company, which is inside the town. He loaded his truck with coal at the railway goods-shed and was taking the same to the premises of the electric Company, when he was asked to pay toll-tax at the toll-barrier, but he did not pay it. He was prosecuted under s. 299(1) of the Act, read with Rule 1 of the Rules for assessment and collection of toll-tax. The respondent denied his liability to pay the tax. The Sub-Divisional Magistrate convicted him under the said section and directed him to pay a fine of Rs. 67-8-0. On appeal, the learned Sessions Judge, Mainpuri, confirmed the same. In revision, the High Court set aside the conviction and acquitted the accused. The Municipality by special leave has preferred this appeal.

Learned Counsel for the appellant contends that on a true construction of s. 128 of the Act and the Rules framed thereunder, the respondent was guilty of the offence with which he was charged. As the question raised turns upon the construction of the said provisions, it would be convenient to read the relevant provisions at this stage.

S. 128. (i) Subject to any general rules or special orders of the State Government in this behalf, the taxes which a board may impose in the whole or any part of a municipality are -

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(vii) a toll on vehicles and other conveyances, animals, and laden coolies entering the municipality.

S. 153. The following matters shall be regulated and governed by rules except in so far as provisions therefor is made by this Act, namely, -

(a) the assessment, collection or composition of taxes, and, in the case of octroi or toll, the determination of octroi or toll limit.

Rules framed by the Municipality Mainpuri.

Rule 1. "No person shall bring within the limits of the Mainpuri Municipality :-

Any laden vehicle or laden animal in respect of which a toll is leviable under notification No. 1866/XXIII-97 of 31st January 1921 until the toll due thereof has been paid to such persons, and at such barriers as the board may from time to time appoint."

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Rule 3. "When any laden coolie or any person in charge of a laden vehicle, or a laden animal wishes to pass barrier, such coolie or person shall pay the toll due to the Moharrir at the barrier."

Any breach of these Rules amounts to an offence under section 299(1) of the Act, and is punishable under the penalty clause of the Rules which is in these words;

"Any breach of the Rules 1, 2, 3 and 4 above shall be punishable with fine which may extend Rs. 50 but shall in no case be less than ten times the amount due from the offender on account of the tax."

The following ingredients of the offence may be gathered from a combined reading of the said provisions : (1) The toll is on vehicles; (2) a person cannot bring a laden vehicle without paying the prescribed toll within the limits of the Municipality from without; (3) the person in charge of such vehicle must pay a toll at the barrier; and (4) if he does not pay, he is liable to punishment. It is clear from the wording of the provisions that they are designed for collecting toll from laden vehicles entering the municipal limits from without. Subject to any general rules or special orders of the State Government in this behalf - it is not suggested that there are any such - the municipal board's power under s. 128(vii) of the Act to levy toll on conveyances is confined only to those "entering the municipality". The word "entering" in s. 128(vii) of the Act clearly indicates that the conveyance to be liable to the toll must enter the Municipality from places outside it. By no stretch of language it is possible to hold that a vehicle which is already in the limits of the Municipality, when it plies for hire, enters the municipal limits. So too, words "bring within the limits of Mainpuri Municipality" in Rule 1 emphasize the idea that a laden vehicle cannot be brought within the Municipality until the toll due has been paid. One cannot bring within the Municipality a vehicle which is already in the Municipality. Confronted with the clear terminology used both in the section as well as in the Rules, the learned Counsel for the appellant attempted to argue that the words "Mainpuri Municipality" are comprehensive enough to take in part or parts of that Municipality and, therefore, when a laden vehicle passes from one part of the Municipality to another part, it has to pay toll if there is a barrier between the two parts. This argument may perhaps be ingenious, but to our mind it is clearly unsound. We find it well nigh impossible to hold that a vehicle is brought within the limits of the Municipality when it is brought from one part of the Municipality to another part.

In the result, we agree with the construction put upon the section by the High Court. The appeal fails and is dismissed.

Appeal dismissed.

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