

Ranjeet Singh Vs. the State

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Court : Allahabad

Decided On : Sep-30-1964

Reported in : AIR1965All478; 1965CriLJ449a

Judge : B. Dayal and ;M. Chandra, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 21 and 21(9)

Appeal No. : Criminal Revn. No. 851 of 1963

Appellant : Ranjeet Singh

Respondent : The State

Advocate for Def. : Mohd. Hamid Husain, Dy. Govt. Adv.

Advocate for Pet/Ap. : R.N. Mulla, Adv.

Disposition : Revision rejected

Judgement :

M. Chandra, J.

1. This case has come up before us on a reference made by a learned single Judge (Mathur, J.) in connection with the conviction of Anrudh for assault on a driver in the roadways bus and the sentence of 12 months Rule 1. under Section 332, I. P. C. by the Judicial Officer Deoria. In appeal also the conviction and sentence were upheld. The case came up in revision before the learned Single Judge of this Court. A decision of Broome, J. of this Court in Cr. Revn. No. 1463 of 1960 (All), Ram Prakash v. State, was cited before him. In that case, Broome, J. relying upon the case of G. A. Monterio v. State of Ajmer, (S) AIR 1957 S C 13, held that the driver of a roadways bus within the meaning of Section 21 I. P. C. (Sic) was a public servant. On behalf of the accused the case of atya Narain Singh v. District Engineer P. W. D. Baliia and another, AIR 1962 S C 1161, was cited in which it was held that roadways vehicles crossing over ferries cannot be regarded as crossing on public service under the provisions of the Notification issued under Section 15 of the Northern India Ferries Act, 1878. It was contended before the learned single Judge that 'public duty' under Section 21(9), I. P. C. Implies performance of duty in or in connection with public service and that consequently the employees of the State Road Transport were not entrusted with the performance of public duty.

Clause (9) of Section 21, I. P. C. runs as follows :

'Every officer whose duty it is, as such officer, to take; receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to prevent the intransaction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty'.

2. We think that such an officer would, under Section 21 of the Penal Code, be covered by the words 'public servant'.

3. The first part of this clause says that every officer whose duty it is, as such officer, to 'keep' any property on behalf of Government, would be a public servant. The driver of a roadways bus is responsible for proper care and maintenance of the vehicle in his charge. Thus his duty is, as a driver, not only to drive the bus but also to keep the vehicle under proper care and maintenance while he is in charge of it. He is therefore a public servant under the provisions of first part of Clause (9) of Section 21, I. P. C. In any case, he is covered by the second part of the clause which says that 'public servant 1 denotes every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty. He is in the pay of Government, in the service of Government and is also performing public duty of keeping the vehicle in his charge and maintaining the same.

4. In the case of (S) AIR 1957 S C 13, their Lordships of the Supreme Court referred to the requirements that the person should be in service or pay of the Government and should be entrusted with the performance of any public duty while they were considering the case of a person employed as Chaser in the Railway Carriage Workshop. The petitioner before their Lordships was Class III servant and was employed as a metal examiner known as Chaser in the Railway Carriage Workshop and was held to be a public servant.

5. The contention on behalf of the petitioner is that the roadways is a commercial undertaking of the State and could not, therefore, be said to be performing any public duty. This contention is without force. In the case before their Lordships of the Supreme Court also in 1957 the Chaser was an employee in the Railway Carriage Workshop. The railway also earned profits and thus cannot but be said to be a commercial undertaking of the Union Government. The only difference is that it is a commercial undertaking of the Union Government while the roadways is a commercial undertaking of the State-Government. It cannot be said that merely because the petitioner is a Government employee in a commercial undertaking of the State Government, he cannot be regarded as a public servant.

6. It was urged that the Supreme Court has departed from this view in its later decision reported in AIR 1962 SC 1161 (Supra). In that case all that their Lordships of the Supreme Court were considering was whether vehicles of the roadways department of the State of Uttar Pradesh could be said to be vehicles crossing over ferries on public service and be consequently exempt from payment of tolls. It was in that connection that the question whether the U. P. Roadways was a commercial undertaking was considered and it was held that it was a commercial undertaking. That was only with regard to the use of the phrase "public or District Board service" in the Notification under S. 15 of the Northern Indian Ferries Act, 1878. The very phrase 'public or District Board service' shows that it was used in a particular sense

for the purposes of that Act. That sense is not: to be imported into the meaning of the words, 'public duty' in Section 21, IPC. even by implication. It cannot, therefore, be said that the earlier decision of their Lordships of the Supreme Court in (S) AIR 1957 S C 13, has been departed from is this decision of 1962. The driver of the roadways bus would, therefore) be a public servant as contemplated by Section 21, I.P.C.

7. In the present case it was found by the Courts below that the petitioner Ranjit Singh had come to see a relation of his at the bus stand. After the passengers had taken their seats, the driver was informed by the bus conductor that the bus was over-loaded and the driver was reluctant to drive the over-loaded bus. The petitioner Ranjit Singh asked the driver to drive the bus as it was the usual practice to take overloaded buses. The driver resented such remarks from the petitioner Ranjit Singh. In the meanwhile some members of the staff came and asked the driver to start the bus as some of the tickets had been issued by mistake. Being persuaded by them, the driver agreed and sat on his seat to start the bus. The petitioner Ranjit Singh thereupon came and gave some lathi blows to the complainant with the result that he received one contusion 4' x 3/4' on the right arm. He also complained of pain on the right thigh and right palm.

It was contended on behalf of the petitioner that he had been falsely implicated, that the driver had demanded some concession in connection with the purchase of liquor from the owner of the shop, Harihar Prasad who had refused to give concession, that thereafter a scuffle had followed between the driver and the petitioner, who happened to be in the service of Harihar Prasad and that the driver sustained some injuries on account of dash against the railings. The contention of the petitioner Ranjit Singh has been repelled by both the courts. The petitioner was convicted by the Magistrate and his conviction and sentence were affirmed by the appellate court. The only question before us therefore is whether he could be convicted under Section 332 I. P. C. We have already held that the driver was a public servant. Section 332 of the 1. P. C, is as follows :

'Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.'

It is clear that hurt was caused to the driver in the discharge of his duty as a public servant for the petitioner, accused had been annoyed because the driver had refused to drive the loaded bus and injured him on account of that annoyance when the driver had seated himself on the driver's seat ready to start the bus. The driver was naturally reluctant to drive the over-loaded bus in the interest of safety, proper upkeep and maintenance of the bus and was, therefore, acting in the discharge of his duty. The applicant was, therefore, rightly convicted under Section 332 1. P. C. The sentence awarded to the petitioner-accused was also just and proper.

8. The application for revision is, therefore, devoid of all merits and is accordingly rejected.