Gajjan Singh vs State Of Madhya Pradesh on 7 May, 1965

Equivalent citations: AIR1965SC1921, AIR 1965 SUPREME COURT 1921, (1965) 2 SCWR 784, 1965 ALLCRIR 423, 1965 MAH LJ 774, 1965 MPLJ 862, 1965 SCD 932, 1965 JABLJ 927, (1965) 2 SCJ 474, 1965 MADLJ(CRI) 674

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Bench: A.K. Sarkar, M. Hidayatullah, V. Ramaswami

JUDGMENT

M. Hidayatullah, J.

1. The appellant Gajjan Singh, who appeals to this Court by special leave against his conviction under Sections 471 and 474, Indian Penal Code and sentences in the aggregate of three years' rigorous imprisonment and a fine of Rs. 1000, was convicted originally under Sections 466 and 474, Indian Penal Code by the Additional Sessions Judge, Indore. In an appeal by him the conviction under Section 466 was altered to one under Section 471 but the conviction under Section 474 and the sentences passed on him were maintained, by the Madhya Pradesh High Court.

2. Gajjan Singh was the owner of truck No. MPE 5554 which was in the charge of Bhagat Singh, his driver. On August 19, 1960 the truck was checked at Nasik because it was suspected to be overloaded. The truck was said to be plying under a temporary permit No. 3175 which was produced before the authorities but on inspection it was found that the permit which had been issued for a period 1-7-1960 to 31-7-1960 was altered to read 1-8-1960 to 31-8-1960. In other words, the figures denoting the month were altered from 7 to 8. Gajjan Singh and Bhagat Singh were prosecuted on diverse charges but Bhagat Singh was acquitted.

3. Only two points merit consideration in this appeal. The first is whether the trial at Indore was with jurisdiction. The permit was seized at Nasik, where it was produced before the authorities but it is obvious that the permit was issued at Indore for the purpose of plying the truck between Indore and out-stations. The truck in question had started from Indore and was on its return journey when it was checked. The permit, therefore, was altered for use between Indore and out-stations. It is not known where the alteration took place but as the permit was issued at Indore it is clear that the alteration was intended to cover its use even in Indore. When the truck left Indore in the mouth of August the permit must have been carried by the appellant or his driver to cover the journey to Nasik and back. Under Section 179 of the Code of Criminal Procedure when a person is accused of the commission of any offence by reason of anything which has been done and of any consequence which has ensued, such offence may be inquired into or tried by a court within the local limits of whose jurisdiction any such thing has been done or any such consequence has ensued. The appellant

in the present case had a forged permit which could be used by him at any of the points between Indore and any out-station. He obviously intended using it when occasion demanded and thus he was guilty of an offence under Section 474, Indian Penal Code from the moment he had in his possession the forged permit, knowing that it was forged and intended to use it. As this offence was a continuing one it could be tried at Indore and the offence under Section 471 which was the desired consequence could also be tried at Indore in view of Section 179 above referred to.

4. The next question is whether the appellant used the permit knowing it to be forged. His case was that he had employed an agency for obtaining the renewal of the permit for the month of August and that the agent must have put the money given by him for renewal in his own pocket and given him the forged permit which he did not realise was forged. The High Court and the court below have agreed in rejecting this contention. There is, no doubt, some evidence that he had employed an agent for getting the permit for July, 1960. An undated letter of authority was found at the office of the Regional Transport Authority which indicated that the appellant had authorised some persons to receive the permit on his behalf. There is also evidence to show that these agents were very tree with the Transport authorities and used to fill up the permits and even make entries in the register in the office of the Transport Authority. There is, however, on proof that an agent was employed for getting a renewal of the permit for the month of August. Suryadeo, P.W. 7 (one such agent) appeared as a witness for the prosecution and was cross-examined as a hostile witness. Though he supported the story of the appellant up to a point he did not say that he or any of his colleagues in the agency was asked to obtain the renewal of the permit for the month of August. The appellant led no evidence on this part of the case. He could have easily established that he had handed over the money to the agent and was duped by the agent. In our judgment, the High Court and the court below were right in rejecting this story.

5. It was faintly argued that the permit was handed over to the Inspecting Authority by the driver who has been acquitted and therefore, if the forged permit was at all used or kept for use it was by the driver and not by the appellant. The appellant and the driver were in two separate trucks; the truck of the appellant was following that of the driver. Evidence shows that while checking was going on the appellant also arrived on the scene. The driver stated that the permit was with the appellant and the appellant said that the permit was with the driver. It makes no difference with whom it was because even if the driver had the permit he was keeping it and using it on behalf of the owner. It is unlikely that the driver would be interested to alter the figures though he might have also known that the document was forged. As both the driver and the appellant were present when the Inspector seized the forged permit the responsibility cannot be shaken off by the appellant on the pretext that the driver handed over the permit and therefore he had nothing to do with it. The truck was being plied by him between Indore and Nasik and it was he who was required under the Motor Vehicles Act to see that the truck was not used without a valid permit. The fact that the checking took place on the 19th August, 1960 shows that for several days the truck must have been in use in Indore and other places without a valid permit. In our judgment, the appellant must be held to have used the forged permit and also to have had it in his possession from Indore to Nasik with the intention to use it. The conviction in these circumstances must be held to be correct on both the counts and the trial to be with jurisdiction.

6. The sentence appears to be heavy but the record discloses that numerous truck owners were similarly using forged permits. This offence appears to be very common and a deterrent sentence was, therefore, called for. We see no reason to interfere. The appeal fails and is dismissed.