

## Gendan Lal vs State on 17 May, 1950

**Equivalent citations: AIR1951ALL403, AIR 1951 ALLAHABAD 403**

ORDER

Seth, J.

1. These two references may be disposed of by the same judgment as they raise a common question of law for decision.

2. The applicant in each case has been convicted under Section 123, Motor Vehicles Act, for having contravened the provisions of Section 42 (1) of the Act, which provides that:

"No owner of a transport vehicle shall use or permit the use of the vehicle in any public place, save in accordance with the conditions of a permit granted or countersigned by a Regional or Provincial Transport Authority authorising the use of the vehicle in that place in the manner in which the vehicle is being used."

3. Applicant Gendan Lal has been convicted of another offence also, but I am not concerned with that offence in the reference in his case. I am concerned only with the conviction of the applicants in these two cases under Section 42/123, Motor Vehicles Act.

4. The case against both the applicants is that they contravened the terms of the particular permits issued to them by not issuing tickets to the passengers. The learned Sessions Judge has rightly pointed out, after perusing the relevant permits that they did not contain any term that tickets shall be issued. He has referred to Section 48, Motor Vehicles Act, to indicate that it is permissible to the Regional Transport Authority to insert such a term in a permit. Having found that it was not a term of the relevant permits in these two cases that tickets should be issued, the learned Sessions Judge has expressed the view that the terms of the permits have not been contravened and, that therefore, the applicants have not committed any offence under Section 42/123, Motor Vehicles Act.

5. In his explanation the learned Magistrate has in either case referred to Rule 81 (10), Motor Vehicles Rules. Rule 81 relates to the conduct of passengers in stage carriages and Clause 10 of that rule provides that a passenger shall be entitled to receive a ticket from the conductor on payment of the fare. It may be that this rule imposes a duty upon the conductor to issue a ticket, but the omission to perform this duty has not been made punishable. What has been made punishable is contravention of the terms of a permit. I entirely agree with the learned Sessions Judge that in these cases no terms of the permits have been contravened. I, therefore, find that the applicants in these two cases have committed no offence under Section 42/123, Motor Vehicles Act.

6. I accept the recommendation of the learned Sessions Judge in both the cases and order that Gendan Lal and Mohammad Taqi be acquitted of the offences under Section 42/123, Motor Vehicles Act and that the sentences awarded to them for those offences be set aside. The fines in respect of these offences, if realised, shall be refunded.