

1960

Present : T. S. Fernando, J.

S. SIVASUBRAMANIAM, Appellant, and M. P. W. MUNASINGHE
(S. I. Police), Respondent

S. C. 246, with Application in Revision No. 32

M. C. Mannar 19451

Motor Transport Act, No. 48 of 1957—Section 84 (2)—“Defaces”—Motor Traffic Act, No. 14 of 1951, s. 24 (2).

By section 84 (2) of the Motor Transport Act, No. 48 of 1957—

“ Any person who wilfully damages or defaces any omnibus of the Ceylon Transport Board or any part of its equipment shall be guilty of an offence. ”

Held, that pasting a piece of paper on the identification plate of an omnibus so as to cover a part of the face of the plate—although the letter and figures forming the distinctive number are not obscured thereby—is an act of defacement within the meaning of the enactment.

APPEAL, with application in revision, from a judgment of the Magistrate's Court, Mannar.

Colvin R. de Silva, with *S. Sharvananda*, for the accused-appellant.

J. A. D. de Silva, Crown Counsel, for the Attorney-General.

Cur. adv. vult.

June 1, 1960. T. S. FERNANDO, J.—

The accused appeals from a conviction on a charge that alleged that he did wilfully deface the identification plate of an omnibus of the Ceylon Transport Board, an offence punishable under section 84 (2) of the Motor Transport Act, No. 48 of 1957. He was fined Rs. 5 and ordered to undergo a week's simple imprisonment if the fine is not paid. No appeal is competent in this case except upon a question of law certified as required by section 340 (2) of the Criminal Procedure Code. The question of law that has been certified was not pressed, and the appeal has to be dismissed.

There is, however, an application in revision canvassing the correctness of the order of conviction and, in view of the opinion I have formed of the merits of the arguments for the applicant, it is necessary to set down the relevant facts.

Section 84 (2) of the Motor Transport Act, No. 48 of 1957, enacts—to reproduce here only the relevant words—that any person who wilfully damages or defaces any omnibus of the Ceylon Transport Board or any part of its equipment shall be guilty of an offence. The accused was proved to have pasted with the aid of gum a piece of paper with the Tamil character ஐ drawn on it on the lower part of the front buffer of an omnibus of the Transport Board which had immediately prior to the accused's act come to a halt at the bus stand at Mannar. The identification plate bearing the distinctive number of this omnibus which was 22 G 1171 being fixed just below the front buffer, the piece of paper pasted on the buffer by the accused projected beyond the width of the buffer and was pasted on to the upper part of the identification plate as well. It is not disputed that no part of the distinctive number (including the Sinhalese character G) was covered by the piece of paper. The learned Magistrate has after addressing his mind to the evidence reached the finding of fact that the piece of paper was pasted on the upper part of the identification plate and on the lower part of the buffer. The consideration by this Court of the present application in revision made by the accused can take place only on the basis of the finding of fact of the trial court.

It is not contended that the act of the accused was not a wilful one. The accused himself stated that he pasted—meaning deliberately pasted—the piece of paper in question on the bus in order to vindicate a principle he cherished that Tamil and Sinhalese are the two national languages of Ceylon and that both languages should be used for all purposes in Ceylon. The contention on which learned counsel for the accused relies in order to succeed in this application in revision is that the accused's act did not amount to a defacing of the identification plate. The word “defaces” appearing in section 84 is not used therein as a term of art or as one that bears a special or legal meaning and must receive its ordinary meaning. According to the Shorter Oxford English Dictionary (3rd ed.), “deface” means to mar the face or appearance of; to spoil the form or beauty of; to disfigure; to destroy, lay waste; to efface.

Where, as has been found here, a piece of paper has been pasted on the identification plate covering a part of its face—although the letter and figures forming the distinctive number were not obscured thereby—it is not difficult, in my opinion, to conclude that the appearance of the identification plate has been marred or that the plate has been disfigured. This appears to be all the more so when considered against the background of the legal requirement—*vide* section 24 (2) of the Motor Traffic Act, No. 14 of 1951—that *no part* of any identification plate shall be obscured in any manner.

The application in revision is also dismissed.

Appeal and Application dismissed.