

1933

Present : Macdonell C.J.

MACPHERSON *v.* APPUHAMY.

274—M. C. Colombo, 14,636.

*Motor lorry—Offence of overloading—Liability of owner—Ordinance No. 20 of 1927, s. 80 (3) (b).*

Where the offence of overloading a motor lorry had been committed by the driver, and the owner of the lorry, who was absent at the time, was unable to show that he had taken all reasonable precautions to prevent the commission of the offence,—

*Held*, that the owner was also guilty of an offence under section 80 (3) (b) of the Motor Car Ordinance.

THE accused was charged as the owner of a motor lorry which was found by the Police to have defective brakes and to be carrying an overload of goods. He pleaded guilty to the charge with respect to defective brakes but contended that he was not responsible for the driver having carried an overload in his absence. The Municipal Magistrate convicted him.

No appearance for appellant.

*Deraniyagala, C.C.*, for Crown, respondent.

May 29, 1933. MACDONELL C.J.—

Really it is sufficient for me to say that I am of the same opinion as the learned Magistrate for the same reasons. It seems that the driver was a temporary one, not even selected by the accused himself. He, the accused, admits further that he knows nothing about the man's record and likewise that his drivers are allowed to secure hires, *i.e.*, loads for his lorries, without any reference to him, the owner of those lorries. He adds "except for my warning there is nothing to prevent them taking in any load they like".

I do not think that on this evidence it can be said that the accused has taken all reasonable precaution to prevent an offence against the Motor Car Ordinance. The appeal is dismissed.

*Affirmed.*

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