

1962

Present : H. N. G. Fernando, J.

A. H. WILLIAM, Appellant, and W. A. DHARMASIRI (S. I. Police),
Respondent

S. C. 680—M. C. Colombo, 13617/C

Motor Traffic Act—Section 25 (1)—Charge of using a motor vehicle without a revenue licence—Quantum of evidence.

A charge under section 25 (1) of the Motor Traffic Act of driving a motor vehicle for which a revenue licence is not in force cannot be proved merely by evidence that a licence was not visible when the vehicle was inspected. The fact that a licence is not in force has to be proved by evidence from the proper authorities to the effect that the licence had not been issued at the relevant time.

APPPEAL from a judgment of the Magistrate's Court, Colombo.

S. A. Marikar, for the Accused-Appellant.

D. W. Abeyakoon, Crown Counsel, for the Attorney-General.

September 24, 1962. H. N. G. FERNANDO, J.—

The accused-appellant was charged on three counts, firstly, with driving a motor vehicle for which a revenue licence under the Motor Traffic Act was not in force, secondly, with failing to make the licence available for inspection, and thirdly, with driving a motor vehicle while there was not in force the necessary policy of insurance under the Motor Traffic Act. The only evidence was that of a Police Constable who stated that on the day in question, the 19th January, 1962, he stopped this lorry and asked the appellant for the revenue licence and the certificate of insurance. According to the Constable neither was produced nor visible on the lorry. The defence of the appellant was that the appellant was driving a bowser belonging to the Shell Company and that when the bowser had been stopped on the road the Constable came up suddenly and rapped the appellant on his shoulder saying "machan". The appellant had then made some remark perhaps showing resentment at the mode of address adopted by the Constable. According to the appellant, the Constable only thereafter stated that he wanted to inspect the lorry. When he did inspect it the revenue licence was visible on the windscreen, one side showing the 1961 licence and the other side the 1962 licence. According to the appellant the Constable never asked for production of the certificate of insurance.

The first count which is the principal one in this case deals with the licensing of motor vehicles and is brought under that section of the Act which prohibits the use of unlicensed vehicles. A charge under section 25 (1) of the Motor Traffic Act cannot be proved merely by evidence that a licence was not visible when a vehicle was inspected. The fact that a licence is not in force has to be proved by evidence from the proper authorities to the effect that the licence had not been issued at the relevant time. In the absence of any such evidence the Magistrate could not have reached the conclusion that the vehicle was unlicensed on 19th January, 1962.

Counsel for the appellant has shown me the licence holder and it would appear that a licence for this vehicle had in fact been issued to be in force from 1st January, 1962. In the absence of any evidence to the contrary, I think it only reasonable to assume that a licence bearing the date 1st January, 1962, must have been issued some time earlier. That assumption renders extremely doubtful the truth of the Constable's evidence to the effect that neither the licence nor the certificate of insurance were produced when called for.

The appeal is allowed and the conviction and sentences set aside.

Appeal allowed.