

APPELLATE CRIMINAL.

*Before Mr. Justice Krishnan.*1922,
December 8.

THE KING-EMPEROR, APPELLANT,

v.

A. DURAISWAMI, ACCUSED, No. 2.*

Police Act (Madras Act III of 1888), sec. 78—Rules dated 10th February 1922, and published in the Fort St. George Gazette—Two persons riding a cycle, one seated on the saddle, the other standing on the back-steps of the same—Whether guilty.

A by-law made under the Madras City Police Act (III of 1888), provided "No person riding a bicycle in any street or public place shall be permitted to carry any other person on the same bicycle, either on the handle-bar, or on the back-step or on the cross-bar; and no person shall ride a bicycle in any street or public place in any other manner than on the saddle." A person who allows himself to be carried on the back-steps of a bicycle by another seated on the saddle of the same cycle rides a bicycle within the meaning of the latter clause of the by-law and commits an offence against it.

CRIMINAL APPEAL under section 417 of the Code (I of 1898) against the acquittal by the order of the Honorary Magistrates, Egmore, in Calendar Case No. 9555 of 1922.

The facts are briefly these:—One D. along with another was tried by the Bench Magistrates, Egmore, for riding a bicycle in contravention of a by-law made under section 78 of the Madras City Police Act. The question considered was whether D. who stood on the backsteps of the cycle and allowed himself to be carried by the other who sat on the saddle of the same cycle came within the mischief of the by-law. The learned Magistrates held that he did not and acquitted him. Against the order of acquittal this appeal was filed by the Crown.

* Criminal Appeal No. 1196 of 1922.

The by-law in question runs as follows :—

“No person riding a bicycle in any street or public place shall be permitted to carry any other person on the same bicycle, either on the handle-bar, or on the back-step, or on the cross-bar, and no person shall ride a bicycle in any street or public place in any other manner than on the saddle.”

The *Crown Prosecutor* (K. P. M. Menon) for the Crown.

Prima facie, the second accused falls directly within the clear wording of the second portion of the above by-law. He was “riding a cycle, sitting elsewhere than on the saddle.” The word “ride” is defined in Webster :—“to make progression ; or to be carried on the back of an animal ; to travel or to be carried in a vehicle ; to be borne on ; to be supported in motion ; to rest on something.”

Therefore although it was the first accused who was pedalling the machine and had control over its movements, the second accused who was only being carried about, is guilty under the second part of the by-law.

Even otherwise he is guilty of the abetment of an offence under the first part of the by-law.

Accused was not represented.

JUDGMENT.

KRISHNAN, J.—The interpretation put by the Honorary Magistrates on the rule referred to by them and published in the *Fort St. George Gazette* of 28th March 1922, Notification No. 81 seems to be erroneous. The first part of the rule applies to the person who pedals the bicycle and takes with him another on the same cycle ; and the latter part of the rule clearly applies to the person who allows himself to be so carried, for he rides the bicycle but not on the saddle. The word “ride” does not necessarily imply that the person riding should

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propel the bicycle himself. It may be that the rule as worded covers the case of a single person riding a bicycle without being seated on the saddle but it certainly covers also the case of a person riding a bicycle in the manner the second accused did. He pleaded guilty and therefore he should have been convicted, but as the Crown Prosecutor does not ask for a sentence it is not necessary to inflict one now. But his acquittal is set aside.

K.U.L.

APPELLATE CIVIL.

*Before Mr. Justice Oldfield and Mr. Justice
Ramesam.*

POTHAN PUTHAN VEETIL KUNHU POTHA-
NASSIAR AND ANOTHER (DEFENDANTS 5 AND 6);

APPELLANTS

v.

ANDRESSERI RARU NAIR AND FOUR OTHERS (PLAINTIFF
AND DEFENDANTS 1 TO 4), RESPONDENTS.*

*Transfer of Property Act (IV of 1882), sec. 53—Proviso—
Bona fide purchaser for value from fraudulent transferee,
whether protected by.*

The proviso to section 53 of the Transfer of Property Act protects not only a *bona fide* transferee from an original fraudulent transferor but also a *bona fide* transferee from a fraudulent transferee. English cases reviewed; *Basti Begam v. Banarsi Prasad* (1908) I.L.R., 30 All., 297, dissented from.

SECOND APPEAL against the decree of G. H. B. JACKSON, District Judge of South Malabar, in Appeal Suit No. 747 of 1919, preferred against the decree of T. KRISHNAN NAYAR, Principal District Munsif of Tirur, in Original Suit No. 469 of 1918.

The facts are given in the judgment of RAMESAM, J.

* Second Appeal No. 1502 of 1920.