

REVISIONAL CRIMINAL.

Before Mr. Justice Tudball.

EMPEROR v. MADAN MOHAN NATH RAINA.*

*Act No. VIII of 1914 (Indian Motor Vehicles Act), section 8.—Driving licence—
Obligation on owner of licence to carry it about with him.*

1920
July, 8.

Held on a construction of section 8 of the Indian Motor Vehicles Act, 1914, that the implication of the section is that the driver of a motor vehicle must carry his driving licence about with him so as to be able to produce it there and then when its production is demanded by a police officer.

THE accused, Madan Mohan Nath Raina, was one evening driving his motor cycle without carrying his driving licence on his person. A police sergeant stopped him and asked him to produce his licence, which the accused had left at home. The accused was convicted and fined Re. 1 by a First Class Magistrate of Allahabad. On revision the Sessions Judge upheld the conviction.

The Hon'ble Dr. Tej Bahadur Sapru, for the applicant, referred to the U. P. Motor Vehicles Act, section 6, and submitted that that Act had been superseded by the Indian Motor Vehicles Act (VIII of 1914), section 8. Although the option of producing the licence within 24 hours had now been taken away, the words "upon demand" did not mean immediately when demand was made, and a reasonable time should have been allowed within which the licence was to be produced. If the driver could produce his licence on the following day or two or three days later he would not be guilty. The whole object of the Act was that unlicensed people should not be driving about.

The Assistant Government Advocate (Mr. R. Malcomson), was not called upon.

TUDBALL, J. :—The applicant, Pandit Madan Mohan Nath Raina, has been convicted under sections 8 and 16 of Act No. VIII of 1914, an Act to consolidate and amend the law relating to motor vehicles in British India. He has been fined Re. 1. The facts are not in dispute. The contention is that, on the actual facts, no offence has been committed under sections 8 and 16 of the Act. The facts are briefly as follows :—Mr. Raina was travelling along the road on a motor cycle when he was stopped

* Criminal Revision No. 351 of 1920, from an order of B. J. Dalal, Sessions Judge of Allahabad, dated the 19th of April, 1920

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by a police sergeant and asked to show his driving licence. It was not in his possession at that time. He asked the sergeant to wait for five minutes so that he might go home and bring it, but the sergeant declined. Upon this the sergeant took down his name and address and reported the matter to the Magistrate. The answer to the question depends upon the meaning of section 8 of the Act which runs as follows:—"The driver of a motor vehicle shall produce his licence upon demand by any police officer." The corresponding section in the English Act, 3 Edward VII, Chapter 36, section 3, clause 4, runs as follows: "A licence must be produced by any person driving a motor car when demanded by a police constable. If any person fails so to produce his licence he shall be liable on summary conviction" etc. So far as the English Act is concerned, there is no doubt whatsoever that it is compulsory upon a driver of a motor vehicle to carry his licence with him, that he is bound to produce it at once directly a police constable calls upon him to do so, and that failure to produce immediately upon such demand is punishable under the Act. To my mind the language of these two sections of the English Act and of the Indian Act has exactly the same meaning. A driver of the motor vehicle is the person who is actually at the time driving. He is bound under the section to produce his licence upon demand. "Upon demand" must mean immediately upon "demand." The reason is obvious. If a person driving a car has not his licence and cannot produce it immediately and if he be allowed to go away it will be open to anybody to evade the Act and at once depart and never be seen any more by the police officer concerned. The number on the car will only inform the police as to the ownership of the car, but it would not inform them who was the driver.

A comparison of this section with the section of the former Local Act, namely, Act II of 1911 of the United Provinces, shows that a clear alteration has been made in the law and it must have been deliberate. The former section ran as follows:—"The driver of a motor vehicle shall upon demand by any police officer produce his licence at once or at any police station within twenty-four hours." That section clearly gave him the option of either producing a licence on the spot or of producing it at

the local police station within twenty-four hours. The wording of the present section seems to me to make it clear that the option has been removed and that a driver must produce his licence immediately. The words "upon demand" are clear and can have only one meaning, namely, at once, directly the demand is made.

It is urged that it would be very hard lines upon many persons who accidently leave their licences behind and are only a short distance from home. It cannot be called hard lines on any body. The law is known and it is easily carried out. The object of the words "upon demand" is also to enable the police officers to prevent unlicensed persons from driving cars and that can only be done by giving the police officers power to demand immediate production of the document when they call for it. When this Act was passed, presumably the Legislature had before it the English Act and the reasons which caused the English Legislature to make it compulsory upon a driver to produce his licence immediately a constable demands it. Those reasons operate equally well in India as in England. The words in the English Act "when demanded" have exactly the same meaning as the words in the Indian Act "upon demand." In my opinion the interpretation of the law which the lower court has adopted is correct and technically the applicant was guilty of the offence of failure to produce. The application is therefore dismissed.

Application dismissed.

APPELLATE CRIMINAL.

Before Sir Grimwood Meares, Knight, Chief Justice, and Mr. Justice Ryves.

EMPEROR v. JAISUKH.*

Criminal Procedure Code, sections 238 and 537—Trial by Sessions Judge with the aid of assessors—Evidence recorded by the Judge alone after the assessors had been discharged—Illegality.

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Where a Sessions Judge is trying a case with the aid of assessors, it is the Judge plus the assessors who constitute the Court, not the Judge alone. Where, therefore, a Sessions Judge recorded evidence after the assessors had been

* Criminal Appeal No. 603 of 1920, from an order of H. J. Collister, Sessions Judge of Saharanpur, dated the 17th of June, 1920.