

1927

EMPEROR
v.
RAM
PRASAD.

review would appear undesirable, and the Code of Criminal Procedure generally makes no provision for a review. An appealable order would, at any rate, appear to stand until set aside by an order in appeal or revision.

Before Mr. Justice Ashworth.

EMPEROR v. SITA RAM.*

Act No. VIII of 1914 (Indian Motor Vehicles Act), section 8
—“Driver”—*Notice by Magistrate requiring a driver licensed for the United Provinces to produce his licence in court.*

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March, 21.

Rule 22 of the rules framed under the Indian Motor Vehicles Act, 1914, does not apply to a person who holds a licence to drive in the United Provinces. To such a person section 8 of the Act applies, and the effect of that section is that, though he may be called upon, when driving, by any police officer to produce his licence, it is not lawful for a Magistrate to issue notice to him to produce his licence in court or at the Magistrate's house.

THIS was a reference from the District Judge of Etawah. The facts of the case, so far as they are necessary for the purposes of this report, appear from the judgement of the Court.

The parties were not represented.

ASHWORTH, J. :—This is a reference by the District Magistrate of Etawah submitted through the Sessions Judge of Mainpuri.

A Magistrate issued a notice to the driver of a motor vehicle to produce his licence and fined him Rs. 15 for not doing so. The District Magistrate is of the opinion that the notice was illegal as it was not delivered by the Magistrate to the driver on the road, but was an order requiring the driver to attend the Magistrate's house or court with his licence. The Magistrate pleads that the order was permissible under rule 21 of the Motor Rules. This rule

* Criminal Reference No. 176 of 1927.

has nothing to do with the matter and the following rule 22 must be intended. The rule runs:—

“ The issue of a licence to a driver of motor vehicles in the United Provinces shall not be necessary in the case of a person duly licensed to drive in any other province: provided that such person shall produce his licence when so required by any Magistrate or police officer in the United Provinces.”

It appears that the Superintendent of Police informed the District Magistrate that the accused was duly licensed in the United Provinces. He was not, therefore, a person licensed to drive in another province and not licensed in the United Provinces and it is only to such a person that rule 22 applies. The only provision of law applicable to a driver with a licence to drive in the United Provinces is section 8 of the Indian Motor Vehicles Act, 1914, which requires a driver to produce his licence upon demand by any police officer. No person is a driver within the meaning of this section 8 unless driving. In this case the accused was neither a driver, nor called on by a police officer to produce his licence. If rule 22 had been applicable, I am not prepared to hold that demand by the Magistrate could only be made from a person actually driving. The rule speaks of a person and not a driver. The conviction, however, was for the reason stated bad in law and is hereby set aside. The fine, if paid, will be returned.

Conviction set aside.

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