

## REVISIONAL CRIMINAL.

Before Sir Louis Stuart, Knight, Chief Judge.

1930  
February, 11

KING-EMPEROR (APPELLANT) *v.* MUHAMMAD HANIF  
(COMPLAINANT-RESPONDENT.)\*

*Motor Vehicles Act (VIII of 1914), section 16—Public motor vehicle—Licensed driver driving a public motor vehicle on private business on a route for which he had no permit, whether an offence under section 16 of the Motor Vehicles Act—“Ply” in the permit must be read to mean “ply for hire”.*

Where a licensed driver of a public motor vehicle which is licensed to ply on a particular route drives that public vehicle on a route in respect of which he holds no permit but he is not driving the vehicle for hire but using it on his own private business, *held*, that he could not be convicted under section 16 of the Motor Vehicles Act read with Rule 79 of the rules for having contravened the conditions of his licence in plying on a route in respect of which he had no permit as the word “ply” in the permit must be read to mean “ply for hire.”

The Assistant Government Advocate (Mr. H. K. Ghose), for the Crown.

Mr. Asghar Hasan, for the respondent.

STUART, C. J. :—This is a reference by the Additional Sessions Judge of Lucknow sitting at Bara Banki in respect of a conviction and sentence under section 16 of the Motor Vehicles Act (VIII of 1914). Muhammad Hanif is a licensed driver of a public motor vehicle which is licensed to ply between Lucknow and Bara Banki and Bara Banki and Haidergarh. On a certain date he drove this public vehicle on the road from Bara Banki to Fyzabad and he has been convicted under section 16 of the Act read with Rule 79 of the rules for having contravened the condition of his licence in plying on a route in respect of which he held no permit. On the facts it is clear that at the time Muhammad Hanif was not driving the vehicle for hire. He was using the vehicle

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for the purpose of transporting himself, his brother and his cleaner from Bara Banki to Fyzabad. He was proceeding to Fyzabad as he had private business there. The licence Form F states the route on which the vehicle is permitted to ply, and the learned Magistrate considered that by proceeding from Bara Banki to Fyzabad he was plying. Now it is to be noted that the word "ply" standing alone, though used in the licence, is not used in the definition. In the definition Rule 3 No. (g) a "public motor vehicle" is stated to mean a vehicle which is let for hire or which stands or "plies for hire" in any public place. I agree with the learned Sessions Judge that the word "ply" in the permit must be read to mean "ply for hire". In this connection it appears to me impossible to hold that it can have any other meaning. To take the other view would involve extraordinary consequences. If a permit was granted to ply between Lucknow and Bara Banki a public motor vehicle and that public motor vehicle was garaged outside Lucknow on the Cawnpore road the holder of the permit would, if this view were taken, be liable to a criminal prosecution on every occasion that he drove the vehicle empty to the garage or drove it back empty to the place in which he commenced his business. The learned Sessions Judge has taken a correct view of the matter and in these circumstances the conviction cannot stand. I set aside the conviction and sentence of fine and direct the fine, if paid, to be refunded. The order suspending the licence will be annulled.