

1955

Present : Weerasooriya, J.

PETER FERNANDO, Appellant, and ABEYSINGHE (S. I. M. Police), Respondent

S. C. 1,158—M. C. Panadura, 39,972

Interpretation Ordinance (Cap. 2)—Section 6 (3) (b)—Offence falling under repealed statute—Charge in respect of it under repealing statute—Legality—Motor Car Ordinance, No. 45 of 1938—Motor Traffic Act, No. 14 of 1951, ss. 2 (1), 14 (1), 244.

When a penal statute is superseded by another statute a person cannot be prosecuted under the repealing statute for an offence which was committed when the repealed statute was in force. It is, however, open to the prosecution, by virtue of section 6 (3) (b) of the Interpretation Ordinance, to charge the offender under the relevant provisions of the earlier statute notwithstanding its subsequent repeal.

Section 244 of the Motor Traffic Act, No. 14 of 1951, does not enable a prosecution under that Act for failure to register a car in breach of the repealed Motor Car Ordinance, No. 45 of 1938.

APPEAL from a judgment of the Magistrate's Court, Panadura.

S. Ponniah, with *C. Chellappah*, for the accused appellant.

Shiva Pasupati, Crown Counsel, for the Attorney-General.

November 24, 1955. WEERASOORIYA, J.—

The appellant was charged with the following offence, that on or about the 1st day of October, 1950, he possessed a motor car No. Z 7960 and failed to register the same in his name in breach of Section 2(1) read with Section 14 (1) of the Motor Traffic Act No. 14 of 1951 and that he thereby committed an offence punishable under Section 226 of that Act. The initial difficulty in the way of the prosecution was to prove that the appellant committed an offence under the Act, which came into operation only in 1951, in respect of an act done in 1950. The evidence discloses that on the 1st October, 1950, possession of this car was transferred by way of sale to the appellant, who, thereafter, continued to be the person entitled to the possession of it, but he took no action to have himself registered as the owner thereof. In respect of his possession of the car on or about the 1st of October, 1950, without that car having been registered in his name, he would have committed an offence under the repealed Motor Car Ordinance No. 45 of 1938 and it was open to the prosecution to have charged him under the relevant provisions of that Ordinance notwithstanding its subsequent repeal. This is made clear by Section 6 (3) (b) of the Interpretation Ordinance.

The learned Magistrate, however, seems to have taken the view that Section 244 of the Motor Traffic Act No. 14 of 1951 enables the prosecution of the appellant as for an offence committed under that Act in respect of his possession of the car in 1950. I cannot see anything in Section 244 which warrants this view. The conviction and sentence are set aside and the accused is acquitted.

Appeal allowed.