

Present : Maartensz J.

LIVERA *v.* BOTEJU

875—*P. C. Colombo, 20,732*

Motor Car Ordinance—Driving bus in a dangerous manner and at a dangerous speed—Ordinance No. 20 of 1927, s. 57 (2).

Exceeding the speed limits is not dangerous driving, unless it is accompanied by circumstances which render it otherwise dangerous.

A PPEAL from a conviction by the Police Magistrate of Colombo.

Mackenzie Pereira, for accused, appellant.

October 30, 1934. MAARTENSZ J.—

The accused appeals from a conviction under section 57 (2) of the Motor Car Ordinance, No. 20 of 1927, for driving a bus in a dangerous manner and at a dangerous speed.

The evidence is that on July 26 at 7.45 P.M. two Constables saw this bus and another one racing each other at a distance of 200 yards away. They were, it is said, travelling at the rate of 30 to 35 miles an hour. The Constables stopped the buses and prosecuted the drivers. The Constables in cross-examination said that the buses took 25 to 30 seconds, to travel 200 yards. If the buses travelled 200 yards in 30 seconds, the rate of progress would have been 16 miles per hour.

The learned Magistrate convicted the accused on the ground that the witnesses cannot be expected to say with any degree of certainty how long the buses took to travel 200 yards. I cannot agree with him because if the Constables were unable to estimate what time it took for the buses to travel 200 yards, they were not in a position to estimate the rate per hour at which the buses were travelling.

Apart from that, there is no evidence in this case that 30 to 35 miles per hour was a dangerous speed at the time and place at which the buses were travelling, for the witnesses have not given any evidence as to the state of the traffic at the time. There is no evidence that the driving was dangerous for any other reason than speed. Speed in excess of a speed limit is not dangerous driving, unless there are circumstances which render it otherwise dangerous. Where a road is crowded, driving even up to the speed limit or less may be dangerous.

I do not think the accused can be convicted on the evidence in this case and I set aside the conviction and acquit him.

Set aside.

