

1935

*Present : Maartensz J.*PODI SINGHO *v.* EDWIN1—*P. C. Colombo, 24,170.*

Motor omnibus—Failure to proceed to destination—No offence—Ordinance No. 20 of 1927, s. 32 (b).

It is no offence for an omnibus to stop short of the destination shown in the destination indicator, when there are no passengers in the bus who are bound for the destination.

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

Colvin R. de Silva, for the accused, appellant.

March 29, 1935. MAARTENSZ J.—

The accused, the driver of bus No. U1358, was charged with refusing or neglecting to proceed to the correct destination as indicated by the destination indicator, to wit, Mount Lavinia, in breach of sections 18 and 32 (b) of the IVth Schedule to the Ordinance No. 20 of 1927, an offence punishable under section 84 of that Ordinance. He was convicted

and sentenced to pay a fine of Rs. 25 and to three weeks' simple imprisonment in default of payment of the fine, and his licence was suspended for a period of three months.

It was contended for the accused-appellant that there is no section which penalizes him for not proceeding to his destination when, as in this case, there were no passengers who had hired the bus to proceed further.

Under section 70 of the Ordinance regulations may be made with regard to hiring cars. Section 71 indicates that the provisions as to hiring cars contained in the IVth Schedule shall have effect. The IVth Schedule is divided into two parts. Part I. is headed "Omnibuses". An omnibus, according to section 2, the interpretation section, means a hiring car having seating accommodation for more than seven passengers. Part 2 applies to motor cabs. A motor cab is defined as a hiring car having seating accommodation for not more than seven passengers. I am not sure that the regulations relating to motor cabs could be made applicable to omnibuses; but that question does not arise here, for whether the regulations in Part 2 apply to omnibuses or not there was in this case no person who had hired the bus to proceed further than to the point at which the accused turned it and returned to the Fort. The charge of which the accused was convicted does not set out the regulation correctly. Rule 32 (b) provides that "the driver of a motor cab shall not, without reasonable excuse, refuse or neglect to drive the cab to any place indicated by the hirer: Provided that the whole journey, out and return, does not exceed 20 miles". There are no words in this rule with regard to a driver refusing or neglecting to proceed to any place indicated by the destination indicator.

The appeal must therefore be allowed and the accused acquitted.

Appeal allowed.
