

1939

Present : Hearne S.P.J.

## ATTORNEY-GENERAL v. KUNJI PALU.

246—M. C. Trincomalee, 5,379.

*Motor car—Accident on highway—Damage to property—No request for information—Duty to report—Motor Car Ordinance, No. 20 of 1927, s. 51 (b) and (c), (Cap. 156).*

Where damage is done to property by a motor car on the highway and no request is made for particulars as required by section 51 (b), the driver is not absolved from the duty to report the accident to the Police.

**A** PPEAL from an acquittal by the Magistrate of Trincomalee.

*D. Jansze, C.C.*, for complainant, appellant.

*Colvin R. de Silva*, for accused, respondent.

August 22, 1939. HEARNE, S.P.J.—

In this case the Attorney-General is the appellant. The respondent was charged with having failed to report an accident involving damage to a buggy cart in breach of section 48 (iii) (b) of Ordinance No. 20 of 1927, as amended by section 6 of Ordinance No. 41 of 1935. (*Vide* Vol. 4 of Legislative Enactments of Ceylon, Cap. 156, page 164.)

It was admitted that no report was made to the Police and it was also conceded that the accused person was not requested by any person for particulars regarding himself, or the lorry he was driving, or the name and address of the owner of the lorry. In these circumstances the Magistrate acquitted the respondent.

The relevant law is this. If, owing to the presence of a motor car on a highway, any accident occurs causing injury to any person, animal or property then—

- (a) the driver of the car shall immediately stop the car ;
- (b) the driver of and every person in the car at the time of the accident shall, if so requested by any person injured, or by the owner of or the person in charge of any animal or property injured, or by any police officer or headman, give his name and address, and also the distinctive number and other identification marks of the motor car and the name and address of the owner of the car ;
- (c) where the driver of the car has not furnished the particulars mentioned in paragraph (b) to any person entitled to obtain such particulars from him, he shall forthwith proceed to the nearest Police Station and report the accident to the officer in charge thereof or to the first Police constable or officer whom he meets on his way thereto ;
- (d) if bodily injury has been caused to any person, the driver shall—
  - (i) if the injured person so requests, or is unconscious, or if he appears to be so injured as to endanger life, take

him at once to a hospital or medical practitioner, and then forthwith report the accident to the officer in charge of the nearest Police Station, and

(ii) in every other case, at once report the accident to the officer in charge of the nearest Police station, and every other occupant of the motor car shall within twenty-four hours communicate his name and address to the officer in charge of a Police Station, stating that he was in the car at the time of the accident;

In acquitting the accused the Magistrate held that it was only if the accused had been asked for particulars in (b) and had failed to furnish these particulars that he became liable to make a report under (c).

It is contended on the other hand by the Attorney-General that it was the accused's duty to report the accident under (c) if he had not furnished particulars in (b) whether he had been requested to furnish these particulars or not.

It appears to me that, if the view of the Magistrate was adopted, the clear intention of the Legislature, namely, that in the event of an accident the driver of a motor car involved in the accident should not in any circumstances be able to hide his identity, would be frustrated in the case of an accident in consequence of which injury was caused to property or an animal but not to a person.

Two illustrations occur to me. Injury is caused to a perambulator but not to the child in it or to the servant propelling it owing to the presence of a motor car on the highway. The servant in charge runs away in fear or, if he does not run away, asks no questions. It is not, I think, intended by the law that the driver of the car may leave the scene of the accident and make no report to the Police. On the contrary, I think, that (c) was expressly intended to meet an eventuality such as this.

Or, again, take the case of a driver who damages a culvert, traffic sign, lamp post or fence. Can it be said that he has complied with the law by stopping his car, inspecting the damage he has done and then speeding on his way again?

The law, as it appears to me, casts on the driver the three-fold duty to stop, to supply information on request, and to report to the Police. In the case of bodily injury having been caused the duty of reporting to the Police is an absolute one. It is necessary that it should be so as the person injured may not be in a condition to ask for particulars. Where, however, bodily injury has not been caused the driver is only absolved from his duty to report to the police if he has already supplied particulars under (b). Should the circumstances be such that the person entitled to particulars has not been placed in possession of those particulars, the driver is under an obligation to make a report to the Police so that they may be available if and when required. It is only in this view of the matter that full effect can, in my opinion, be given to the purpose with which the law was framed.

I allow the appeal, convict the accused, and remit the case to the Magistrate for the purpose of passing sentence.

Since writings the above I have seen an article in the *Law Journal* commenting on section 22 of the Road Traffic Act, 1930, sub-section (2) of which is similar to though not identical with (c). "On one matter, however, we are certain", the concluding paragraph reads, "if an accident well within the Act takes place, and the only reason why the driver does not give his name and adress is that there is nobody there who is willing and able to ask for it, the duty to report arises".

I interpret our own law in the same way.

*Set aside.*

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