

and reasonable construction, they lead only to one conclusion and that is that the copies of the criminal judgments or orders must bear the court fee stamp prescribed by Art. 9. That is the view taken by the High Court consistently with the practice prevailing in the High Court for several years. We are satisfied that the view of the High Court and the practice prevailing there are wholly justified by the provisions of Art. 9. This question was raised before the Travancore-Cochin High Court in *James Paul Alexander v. James Arthur Edwards* ⁽¹⁾ where the same view has been taken about the construction of the corresponding article, Art. 10, of the Court Fees Act.

We may add that there is some force in the contention raised by the appellant that the court fee prescribed by Art. 9 may sometimes work hardship on accused persons; but that is a matter of policy with which we are not concerned. The Legislature may, however, consider whether it would not be appropriate to enact a suitable provision dealing with copies of criminal orders and judgments as has been done in Madras. The Madras Legislature has inserted Art. 6-A in Sch. I of the Act by Act V of 1922, prescribing a uniform court fee of 8 as. for the copy or translation of a judgment or order of a criminal court.

In the result the appeal fails and is dismissed.

Appeal dismissed.

THE MUNICIPAL BOARD, MAINPURI

v.

KANHAIYA LAL

(P. B. GAJENDRAGADKAR and K. SUBBA RAO, JJ.)

Municipality—Toll—Vehicle carrying goods from one place to another within municipal limits—Liability—U. P. Municipalities Act, 1916 (U. P. Act No II of 1916), s. 128(1)(vii).

The respondent was engaged by the Mainpuri Electric Supply and General Mills Co. Ltd., to carry coal from the Railway goods-shed to its premises. He loaded his truck with coal at the goods-shed and was carrying the same to the premises of the electric

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company, both situated within the municipal limits. He refused to pay the toll tax when asked to do so at the toll barrier and was prosecuted under s. 299(1) of the Act. The Sub-Divisional Magistrate convicted him and sentenced him to pay a fine of Rs. 67/8. On appeal, the Sessions Judge affirmed the order of conviction and sentence. The High Court, in revision, set aside the conviction and acquitted him. The Municipality appealed to this Court by Special Leave.

Held, that the appeal must fail.

Section 128(vii) of the Act rightly construed, clearly indicates that the municipal board's power to levy toll on conveyance is confined only to such vehicles as enter the municipality. The words "entering the municipality" occurring therein show that a conveyance can be liable to the toll only when it enters the municipality from outside.

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 88 of 1958.

Appeal by special leave from the judgment and order dated August 23, 1957, of the Allahabad High Court, in Criminal Revision No. 54 of 1955, arising out of the judgment and order dated December 17, 1954, of the Sessions Judge, Mainpuri, in Criminal Appeal No. 291 of 1954, confirming the judgment and order dated July 13, 1954 of the Magistrate 1st Class, Mainpuri, in Criminal Case No. 20 of 1954,

S. P. Sinha and *B. R. L. Iyengar*, for the appellant.
The respondent did not appear.

1959. October 6. The Judgment of the Court was delivered by

Subba Rao J.

SUBBA RAO J.—This appeal raises the question of true interpretation of s. 128 of the U.P. Municipalities Act, 1916, (hereinafter called the Act). The facts lie in a small compass and they are not in dispute.

The State Government issued a notification defining the municipal limits of the town of Mainpuri. Under this notification the goods-shed of the Mainpuri railway station is included within Mainpuri municipal limits, but the rest of the station is excluded therefrom. A motorable road connects the station with the main inhabited area of the town. The Municipality fixed a toll-barrier on this road between the railway goods-shed and the inhabited area of the town. The

Mainpuri Electric Supply and General Mills Co. Ltd., Mainpuri, supplies electricity to Mainpuri town. It purchases coal from places outside Mainpuri and receives the same in railway wagons, which are unloaded and kept in the goods-shed. The respondent owns a truck. He was engaged to carry the coal from the goods-shed to the premises of the electric Company, which is inside the town. He loaded his truck with coal at the railway goods-shed and was taking the same to the premises of the electric Company, when he was asked to pay toll-tax at the toll-barrier, but he did not pay it. He was prosecuted under s. 299(1) of the Act, read with Rule 1 of the Rules for assessment and collection of toll-tax. The respondent denied his liability to pay the tax. The Sub-Divisional Magistrate convicted him under the said section and directed him to pay a fine of Rs. 67-8-0. On appeal, the learned Sessions Judge, Mainpuri, confirmed the same. In revision, the High Court set aside the conviction and acquitted the accused. The Municipality by special leave has preferred this appeal.

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Learned Counsel for the appellant contends that on a true construction of s. 128 of the Act and the Rules framed thereunder, the respondent was guilty of the offence with which he was charged. As the question raised turns upon the construction of the said provisions, it would be convenient to read the relevant provisions at this stage.

S. 128. (i) Subject to any general rules or special orders of the State Government in this behalf, the taxes which a board may impose in the whole or any part of a municipality are—

* * *

(vii) a toll on vehicles and other conveyances, animals, and laden coolies entering the municipality.

S. 153. The following matters shall be regulated and governed by rules except in so far as provisions therefor is made by this Act, namely,—

(a) the assessment, collection or composition of taxes, and, in the case of octroi or toll, the determination of octroi or toll limit.

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Rules framed by the Municipality Mainpuri.

Rule 1. "No person shall bring within the limits of the Mainpuri Municipality :—

Any laden vehicle or laden animal in respect of which a toll is leviable under notification No. 1866/XXIII-97 of 31st January 1921 until the toll due thereof has been paid to such persons, and at such barriers as the board may from time to time appoint."

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Rule 3. "When any laden coolie or any person in charge of a laden vehicle, or a laden animal wishes to pass barrier, such coolie or person shall pay the toll due to the Moharrir at the barrier. . . ."

"Any breach of these Rules amounts to an offence under section 299(1) of the Act, and is punishable under the penalty clause of the Rules which is in these words;

"Any breach of the Rules 1, 2, 3 and 4 above shall be punishable with fine which may extend Rs. 50 but shall in no case be less than ten times the amount due from the offender on account of the tax."

The following ingredients of the offence may be gathered from a combined reading of the said provisions : (1) The toll is on vehicles ; (2) a person cannot bring a laden vehicle without paying the prescribed toll within the limits of the Municipality from without ; (3) the person in charge of such vehicle must pay a toll at the barrier ; and (4) if he does not pay, he is liable to punishment. It is clear from the wording of the provisions that they are designed for collecting toll from laden vehicles entering the municipal limits from without. Subject to any general rules or special orders of the State Government in this behalf—it is not suggested that there are any such—the municipal board's power under s. 128 (vii) of the Act to levy toll on conveyances is confined only to those "entering the municipality". The word "entering" in s. 128 (vii) of the Act clearly indicates that the conveyance to be liable to the toll must enter the Municipality from places outside it. By no stretch of

language it is possible to hold that a vehicle which is already in the limits of the Municipality, when it plies for hire, enters the municipal limits. So too, the words "bring within the limits of Mainpuri Municipality" in Rule 1 emphasize the idea that a laden vehicle cannot be brought within the Municipality until the toll due has been paid. One cannot bring within the Municipality a vehicle which is already in the Municipality. Confronted with the clear terminology used both in the section as well as in the Rules, the learned Counsel for the appellant attempted to argue that the words "Mainpuri Municipality" are comprehensive enough to take in part or parts of that Municipality and, therefore, when a laden vehicle passes from one part of the Municipality to another part, it has to pay toll if there is a barrier between the two parts. This argument may perhaps be ingenious, but to our mind it is clearly unsound. We find it well nigh impossible to hold that a vehicle is brought within the limits of the Municipality when it is brought from one part of the Municipality to another part.

In the result, we agree with the construction put upon the section by the High Court. The appeal fails and is dismissed.

Appeal dismissed

DR. B. K. PAL CHAUDHRY

v.

THE STATE OF ASSAM

(S. K. DAS, A. K. SARKAR and M. HIDAYATULLAH, JJ.)

Criminal Procedure—Intentionally giving false evidence—Show cause notice—Duty of Appellate Court—Criminal Procedure Code, s. 479A, sub-ss. (1) and (5).

By sub-s. (1) of s. 479A of the Code of Criminal Procedure "when any ... Criminal Court is of opinion that any person appearing before it as a witness has intentionally given false evidence in any stage of the judicial proceedings and that, for the eradication of the evils of perjury and in the interests of justice, it is expedient that such witness should be prosecuted for the offence which appears to have been committed by him, the Court shall, at the time of the delivery of the

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