

(1940) 08 CAL CK 0019**Calcutta High Court****Case No:** Criminal Rev. Nos. 701 and 702 of 1940

Ghison Ram Hira Lall

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: Aug. 13, 1940**Judgement**

Edgley, J.

In the first of these cases the Petitioner has been convicted under r. 6 (2), read with r. 4 (4) of the Motor Vehicles Rules of 1930. The case for the prosecution seems to have been that the Petitioner bought a motor vehicle, but did not apply for fresh registration on change of ownership as required by r. 6 (2). It is contended on his behalf that this was not necessary owing to the fact that the motor vehicle in question was not in use at the time when the ownership changed. I am, however, not prepared to accept this contention. Although the Motor Vehicles Rules of 1930 were framed under the Act of 1914, they were admittedly in operation at the time when this prosecution took place. At that time the new rules under the Act of 1939 were not in operation, but the old rules must be read subject to the provisions of the Motor Vehicles Act of 1939 which had come into operation, with the exception of Chapter VIII, on the 1st of July, 1939. It seems to be clear from the language of the rules read in the light of secs. 31 and 34 of the Act of 1939 that when the ownership of a motor vehicle is transferred, which has already been registered, such vehicle must be registered afresh and the prescribed fee must be paid. If, however, the vehicle in question has been destroyed or has become permanently incapable of use, the owner may take action under sec. 34 of the Act. In this case it is not contended that the vehicle in question had become permanently incapable of use and, in my view, the conviction of the Petitioner is correct and the Rule must, therefore, be discharged.

2. In the second case, however, it is admitted by the Inspector of Police that the lorry had been "suspended." It is not at all clear what was meant by this and it is possible that action may have been taken either under sec. 33 or 34 of the Motor Vehicles Act of 1939. If the prosecution had wished to establish their case against the Petitioner,

it was necessary that clear and satisfactory evidence should have been given. This has not been done. As regards Criminal Revision No. 702 of 1940 the Rule will be made absolute and the order of the learned Magistrate dated the 17th of May, 1940, is set aside.