

(1926) 01 BOM CK 0058

Bombay High Court

Case No: None

Emperor

APPELLANT

Vs

Pandu Ramji

RESPONDENT

Date of Decision: Jan. 7, 1926

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 562(1)(a)

Citation: AIR 1926 Bom 230

Hon'ble Judges: Marten, J; Madagavkar, J

Bench: Full Bench

Judgement

Marten, J.

We agree with the letter of reference of the District Magistrate of East Khandesh to the effect that the accused in these two cases could not properly be admonished u/s 562(1)(a) of the Criminal Procedure Code. The attention of Magistrates should be drawn to the fact that the sub-section only applies to a certain limited class of cases such as theft and. so on under the Indian. Penal Code. Consequently it does not apply to an offence under a totally different Act such as the present, the Motor Vehicles Act of 1914. The words of the sub-section are plain, and effect must be given to them whether the sub-section should not be extended so as to cover less serious offences than those at present mentioned is a matter for the Legislature and not for ourselves. If a Magistrate wishes to pass a nominal sentence there are other means of doing it than the one the trial Magistrate has adopted in the present case.

2. The District Magistrate states that this offence of overcrowding taxis has become too prevalent, but we think that that fact does not appear from the papers before us, nor was it a point actually taken at the trial. If in any case a deterrent sentence is required, the prosecuting counsel should, I think, in general state this to the trial Magistrate at the hearing.

3. Under the circumstances and as both these taxi-drivers are first offenders we will in each case pass a sentence of a fine of five rupees and set aside the order of the Second Class Magistrate, Edlabad.

Madagavkar, J.

4. I agree.