

Code of Criminal Procedure, 1898

Section 162 - Statements to police not to be signed: Use of such statements in evidence: Notes Applicability.- For applicability see

1).-1970(2) SCC 113 : 1970 SCC (Cri) 328. See under Evidence Act, 1872 Section 32(1). Whether ultra vires.-Section 162(2) so far as it relates to Section 27, Evidence Act is void under Article 14 of the Constitution. 1960 Cr LJ I : AIR 1960 All 1(FB). Construction.-The cardinal rule of construction of the provisions of a section with a proviso is to apply the broad general rule of construction. 1959 CrLJ 1231: 1959 Mad LJ (Cr) 759: AIR 1959 SC 1012. For admissibility of statement of witnesses recorded during investigation see Section 154, supra. 1960 Mad LJ (Cri) 477 : (1960)2 Andh WR 73. Scope.-Specimen handwriting made by the accused at the dictation of a police officer much before the investigations were started, does not come within Section 162. 1959 Cri LJ 881 : (1959) Mad LJ (Cri) 337 : AIR 1959 Mys 185. Prepared notes.-Using notes prepared from memory of what a person had stated before investigating officer would offend provisions of Section 162. AIR 1960 Mys 111. Omission, effect.-Omissions in respect of minor details in statement before police do not affect evidence given in Court. AIR 1960 Mys 111. List of stolen articles.-The subsequent list of stolen articles by the complainant was held to be part and parcel of the first information report, but the same is not covered by Section 162. 1958 MP LJ (Notes) 177. Discovery of facts.-Whether Section 162 bars recording of statements leading to discovery of fact, see Section 161, supra. 1960 Cr LJ 1: AIR 1960 All 1(FB). Giving of specimen of handwriting is not statement.-When an accused person gives his handwriting or thumb-impression for comparison in the course of investigation, he does not give a statement, proof whereof is prohibited by Section 162. 1939 Cr LJ 1057 : 61 Bom LR 345 : AIR 1959 Bom 408. Use of statement.-It lays down that statement recorded during investigation shall not be used for any purpose except to the limited event mentioned in the section itself. 1959 All LJ 651 : 1960 Cr LJ 1 : AIR 1960 All 1 (FB). It lays down the limited use to which a statement recorded under Section 161 of the said Code can be put. The Courts are prohibited from using such statements as corroboration of the statement made in Court. Statements not to be got signed.-The evidentiary value of the statements of witnesses is seriously impaired if they have been made to sign their statements during the course of an investigation. The evidence of an agent provocateur has to be scanned very carefully. 1959 Ker LT 872 : 1959 Ker LJ 1143 : (1959) MLJ (Cr) 186. Statements made by witness during investigations should not be got signed by them if they are reduced into writing. Where a witness stated that he had signed his statement or put his thumb-mark on his statement, it is the duty of the Trial Judge to clear this point by questioning the investigating officer and by looking into the relevant records whether the witness had actually signed his statement or not. Any statement made in the Panchnama cannot be used in evidence except for the purpose of contradicting witness whose statement is contained in the Panchnama. It is only when the statements contained in the Panchnama are put to the Panch witnesses that notice can be taken of the contradictions between the evidence of Panch witnesses and what is contained in the Panchnama. But before the writing is proved his attention must be called to those parts which are to be used for contradicting him. The parts of statement that is to aim does not constitute substantive evidence. Where the witness was made to write his statement during investigation, it is inadmissible in evidence. Interest of justice.-Witnesses examined by the Court in the interest of justice cannot be said to be witnesses called for prosecution. 1959 Mad LJ (Cr) 380: 1959 AP LT 857. Use of statements.-There is a general bar against the use of the statements of witnesses made before the police during investigation at the trial to a limited exception in the interests of the accused, and the exception is not meant to cross the bar. 1959Cr Lf 1231 1959 Mad LJ (Cr) 759 : 1959 SCJ 1042 : AIR 1959 SC 1012. Violation of Section 162.-There is no hesitation in finding that the Circle Inspector acted in violation of Section 162) Criminal Procedure Code when he took down the statement of the witnesses and got their signatures thereto. 1960 MLJ (Cr) 695. Destruction of statements.-A deliberate destruction of statements of witnesses made during investigation would occasion prejudice to the accused which would swing the balance in favour of the accused. 1959 Mad LJ (Cr) 192 : AIR 1959 AP 325 : 1959 AP LT 76. Defamatory statement.-It cannot be

said that the defamatory statement cannot be used in evidence against the maker in his prosecution under Section 500, 1. P. C. 1960 All LJ 109: 1960 Cr LJ 1296 : AIR 1960 All 623. Contradictory statement.-The section requires due proof of the contradictory statement if it is intended by defence to discredit the witness. 1959 MP 517: 1959 Cr LJ 1341: AIR 1959 MP 391. Confronting a witness.-Ordinarily the Court permits the cross-examination of a witness who has resiled from his statement made by him during investigation but now under the amended Section 162, it is open to the prosecution to confront a witness with his statement made during investigation with the permission of Court. 1960 Cr LJ 520 : AIR 1960 Raj 101. Motive-How far necessary to prove-Statement made by accused to the investigating officer at the time of investigation - Admissibility of. Held : It is not always very easy to prove motive. Oftentimes, the motive is locked up in the heart of the offenderIn our opinion in a case like this, the proof of motive does not play an important part. Pritam Singh v. State of Rajasthan, (1969)3 SCC 884. Dictum of Supreme Court.-It is unfortunate that our law does not admit of cross-examination of such a witness (defence witness) in respect of statements before the police. C. Laxman Kalu v. State of Maharashtra, AIR 1968 SC 1390 at 1392. For statements recorded during investigation-Value of.-See Notes in Section 161. AIR 1968 SC 1323 : AIR 1968 SC 147. [(1) No statement made by any person to a police officer in the course of an investigation under this chapter shall, if reduced into writing, be signed by the person making it ; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made : Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by (S.145 of the Indian Evidence, Act, 1872), and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination. (2)Nothing in this section shall be deemed to apply to any statement falling within the provisions of , clause (1), (S.32 of the Indian Evidence Act, 1872), or to affect the provisions of (Section 27) of that Act.