

Baidyanath Patnaik Vs. State

Baidyanath Patnaik Vs. State

SooperKanoon Citation : sooperkanoon.com/529233

Court : Orissa

Decided On : Apr-09-1968

Reported in : 34(1968)CLT811; 1969CriLJ339

Judge : G.K. Misra, J.

Appellant : Baidyanath Patnaik

Respondent : State

Judgement :

ORDER

G.K. Misra, J.

1. The petitioner was the officer-in-charge of Dharmasala Police Station in the district of Cuttack on 25.12.1967. That day at about 7-30 p.m., a trap was laid on him by the Vigilance Police on the allegation that the petitioner received bribe. Vigilance Case No. 45 of 1967 was registered at the Cuttack Vigilance Police Station under Section 161, I.P.C. In respect of the very incident, the petitioner made a Station Diary entry and filed F.I.R. in the Dharmasala Police Station giving a completely different version of the story. That case was registered as Dharmasala Police Station Case No. 151 of 1967. According to the Vigilance Department, the petitioner accepted illegal gratification. Petitioner's case is that currency notes were put into his pocket forcibly without his knowledge and against his desire. It is unnecessary to give further details of the story which is not relevant

to the point in issue.

2. Two separate investigations went on. Dharamasala P.S. Case No. 151 of 1967 was being investigated into by the Inspector of police under the supervision of the Deputy Superintendent of Police, Jaipur, who is a member of the regular Police force, while Cuttack Vigilance Police Station Case No. 45 of 1967 was being investigated into by the Vigilance Police, Cuttack.

Petitioner's case is that the Vigilance Police moved the State Government as a result of which Dharamsala Police Station Case No. 151 of 1967 was directed to be handled by the Vigilance Department. The petitioner moved the Additional District Magistrate (Judicial), Cuttack, praying that the Vigilance Police should not inquire into Dharamsala Police Station Case No. 151 of 1967 and that it should be inquired into by a Magistrate. The learned Additional District Magistrate (Judicial) rejected this application and against his order dated 14-2-1968, the criminal revision has been filed.

3. Mr. Misra contends that the investigation of Dharamsala P.S. Case No. 151 of 1967 by the Vigilance Police violates the principle of natural justice and would prejudice the case of the petitioner inasmuch as the persons complained against by the petitioner would be in charge of investigation. He also argues that the Vigilance Police cannot make investigation into a case registered in Dharamsala Police Station by the regular police and that the State Government have no power of transfer.

All these contentions require careful examination.

4. Section 4(1)(s), Criminal P.C., defines 'police station'. 'Police station' means any post or place declared, generally or specially, by the State Government to be a police station, and includes any local area specified by the State Government in this behalf.

5. By Notification No. 19872-Ref., dated 13.8.1962, the Government of Orissa in Home Department in exercise of the powers conferred by Clause (s) of Sub-section (1) of Section 4 of the Code of Criminal Procedure, declared that the

offices specified in Col. 1 of the Schedule I thereof shall be police stations and that they shall include within their limits the areas specified against each of them in Col. 2 of the said schedule for the purposes of offences mentioned in Schedule 2. The notification came into force with effect from 15th day of August, 1962. In Schedule 1 it was stated that the office of the Superintendent of Police, Vigilance, Cuttack, shall have jurisdiction in the districts of Cuttack, Puri, Balasore and Mayurbhanj for the purpose of offences under Sections 161, 165 and 165A of the Indian Penal Code. The allegation of the petitioner against persons offering bribe comes within Section 165A. Thus, the Vigilance Police Station, Cuttack, has full jurisdiction on the basis of this notification to investigate into offences punishable under Sections 161, 165 and 165A, I.P.C., arising within the jurisdiction of Dharmasala Police Station in the district of Cuttack. The Vigilance Police Station at Cuttack has, therefore, jurisdiction to investigate into both Vigilance Police Station Case No. 45 of 1967 and Dharmasala Police Station Case No. 151 of 1967.

6. Mr. Misra placed reliance on Section 156, Cr.P.C. in support of the contention that there cannot be two police stations in respect of the same area. The section runs thus:

156. (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provision of Chap. XV relating to the place of inquiry or trial.

There is nothing in this sub-section nor any other provision in the Code that in respect of the same area, there cannot be two police stations having concurrent jurisdiction. The contention has no force.

7. As has already been stated, Dharmasala Police Station Case No. 151 of 1967 was being investigated into by an Inspector of Police while the Vigilance Police Station Case No. 45 of 1967 was being investigated into by a Deputy Superintendent of Police. Section 551, Cr.P.C., speaks of the powers of superior officers of police. It lays down that police officers superior in rank to an officer-in-charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the

limits of his station.

Placing reliance on this section, the learned Government Advocate contends that as the Vigilance police station case is being supervised by a Deputy Superintendent of Police, superior in rank to the Inspector of Police investigating the Dharmasala police station case, there is no lack of jurisdiction in the investigation by the Vigilance D.S.P. The contention has no force in this particular case. Doubtless, law is well settled that a police officer superior in rank to an officer in charge of the police station might take up investigation of a case in respect of a particular police station under his jurisdiction. But here the position is different. The Police Department is not under the control of the Vigilance Department. There are two separate Inspectors-General as heads. No one has control over the other. Though officers of the Vigilance Department belong to the general Police force, for the time being they work in the Vigilance Department, they are under deputation and are under the day-to-day administrative control of the Director of Vigilance. The Deputy Superintendent of Police of the Vigilance police station cannot thus be regarded as an officer superior in rank to the Inspector of Police investigating Dharamsala Police Station case, so long as the D.S.P. is working in the Vigilance Department. This contention is accordingly rejected.

8. The learned Government Advocate placed reliance on Section 3 of the Police Act, 1861, conferring superintendence in the State Government. It runs thus:

The superintendence of the police throughout a general police district shall vest in and shall be exercised by the State Government to which such district is subordinate; and except as authorised under the provisions of this Act, no person, officer, or Court shall be empowered by the State Government to supersede, or control any police functionary.

'A general police district' obviously means the administrative police district. The State Government have thus superintendence of the police in all the districts of the State. For the purpose of Vigilance Department, the administrative districts have been differently constituted as per the aforesaid notification. By virtue of this section, the State Government have superintendence over the regular police force

and the Vigilance Police. Here the power of superintendence is purely administrative.

The word 'superintendence' is an expression of wide import. In the Oxford Dictionary, it carries the following meaning:

have the management of; arrange and inspect the working of.

Thus, the State Government can arrange and inspect the working of the general and Vigilance Police. Such a power takes within its sweep the power to transfer one case from one department to the other for the purpose of investigation. The order of the State Government directing investigation of Dharamsala police station case by the Vigilance is within jurisdiction.

9. Mr. Misra next contends that as in the Dharamsala police station case the officer-in-charge had lodged information complaining against the conduct of the Vigilance Police, the investigation by the Vigilance would prejudice the officer-in-charge and violates the principle of natural justice. Both the matters relate to the same incident and it would be for the general convenience that one functionary should investigate both the cases. Merely because the Vigilance Police detected a crime in due discharge of their official duties, unfairness cannot be imputed to them. This contention is accordingly rejected.

10. The revision is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com