

**Madan Lal Vs. State**

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**Court :** Delhi

**Decided On :** Jan-11-1974

**Reported in :** 1974RLR104

**Judge :** P.S. Safer, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 242

**Appeal No. :** Criminal Revision Appeal Nos. 304 and 308 of 1973

**Appellant :** Madan Lal

**Respondent :** State

**Advocate for Pet/Ap. :** N.K. Juggi and; P.P. Malhotra, Advs

**Judgement :**

**P.S. Safer, J.**

(1) This judgment will dispose of Cr. R. No. 304 and 308 of 1973 which present an identical aspect. The petitioner in both the petitions is Madan Lal. One of these petitions arises out of the allegation that on 22-3-1973 while driving mini bus No.DLP 4848 Madan Lal was stopped at about 2-30 p.m. and the challenging officer submitted to Shri M R. Gupta, the averments contained in a printed form being No. 3604. He alleged that he had found Madan Lal driving the vehicle with 24 passengers in it while only 18 passengers could have been carried by the mini

bus. The alleged offence mentioned in the printed form submitted to the Magistrate, was; 4.38 (7) 112'. It was not stated in ink that 4.38 (7) 112, were the provisions contained in any particular enactment. In the printed portion I find :-

'AND request that action be taken under the provisions of sections/rules M.V.A / D.M.V. Rules 1940 against him.'

(2) The other petition arises out of the allegation that Madan Lal was stopped while driving the same mini bus on 20-3-1973 carrying in it 24 passengers while he could have carried only 18. The printed form submitted by the challenging officer and the proceeding that followed were identical to those noticed above. Mr. M. K. Gupta, Judicial Magistrate 1st Class to whom the printed form were submitted, was to proceed in accordance with the provisions contained in Chapter 20 of the Criminal Procedure Code, hereafter called 'the code'. Sections 242 and 243 in the Code may be reproduced :-

'S.242. Substance of accusation to be stated :-When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, but it shall not be necessary to frame a formal charge.

'S.243.Conviction on admission of truth of accusation :- If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him, and, if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.'

As soon as the accused was to be produced the Magistrate as a matter of duty was to state the particulars of offence making clear to the accused as to why he was being asked to show cause against conviction.

(3) Section 243 of the code is exceptional in as much as even while admitting that he has committed the offence the accused may furnish his Explanationn showing sufficient cause why he should not be convicted. If both the provisions are

scrutinized together, their combined effect would be that the accused will have the opportunity of showing cause against the conviction even when admitting the commission of the crime and that he will be able to do only when the particulars of the alleged offence, are stated to him. What does the phrase 'the particulars of offence' imply? It means that the Magistrate is required by section 242 to put to the accused the precise and particular circumstances constituting the offence. Unless the accused is faced with the allegations which according to the prosecution may be making out an offence he will be unable to admit or deny each one of or any of the circumstances alleged against him and where he may be admitting the commission of the crime it shall not be possible for him to show sufficient cause that he even then should not be convicted. It is therefore, an imperative requirement that the particulars of the offence must be stated to the accused.

(4) I have perused the record pertaining to both the convictions. In the printed form the words are 'and you committed the following offence.' Thereafter no particulars of the commission of any crime are stated. What appears in one case is 4.38 (7) 112 and in other case 4.38 (7) 112. 4.43/12'. Even the statute containing those provisions is not mentioned. It is urged on behalf of the State that in the order passed by the Magistrate he used the words 'allegations explained' and that it should be taken that the particulars of the offence were stated to the accused.

(5) If the provisions of sections 242 and 243 quoted above are kept in view then the requirement in section 243 is that the admission by the accused is to be recorded as nearly as possible in the words used by him. That admission may contain sufficient cause for the commission of the offence which the Court will have to take into consideration for determining whether the accused is to be convicted or not. Where the admission is required to be recorded as nearly as possible in the words used by the accused the intendment in section 242 of the Code would not be otherwise than the requiring of the recording of the particulars of the offence stated to the accused. The judicial record must disclose that sections 242 and 243 have been complied with. It must contain the particulars of the offence stated to the accused. The admission recorded within section 243 of the Code will have to be weighed in the light of the particulars of the offence stated under section 243 of the Code. The authority to convict would be exercised after

considering the admission which is to be recorded as far as possible in the words used by the accused. Any terms used in the order convicting the accused would not relate to the stage at which the Court performed its function within section 242 of the Code. That stage is an earlier stage and it is at that stage that the particulars of the offence are to be stated. That stage is followed by the admission which the accused may make within section 243 and which may contain his Explanationn showing sufficient cause which may still persuade the Court that in the light of the admission the accused need not be convicted. Those being the propensities in sections 242 and 243 the present proceedings disclose a total non-compliance with them.

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