

Veena Rangnekar Vs. State

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Court : Delhi

Decided On : Mar-26-1999

Reported in : 2000CriLJ2543; ILR1999Delhi190

Judge : S.N. Kapoor, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 227, 228, 397, 401 and 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 186 and 342

Appeal No. : Cri. Rev. 15/9

Appellant : Veena Rangnekar

Respondent : State

Advocate for Pet/Ap. : Mr. Danial Latefi, Sr. Advocate and; Mr. Suresh Tripathi, Adv

Judgement :

ORDER

S.N. Kapoor, J.

1. This petition is directed against an order framing of charge for offences under Section 186 and Section 342 IPC.

2. Brief facts of the present petition are as under :-

2.1. On 23rd August, 1996 SI Sunil Srivastava, SI Baljit Singh, Rajendra Singh, Sr. Scientific Assistant Gr.I and Mr. Ravi Kumar, Scientific Assistant CFSL, Lodi Road, New Delhi came to A/6, Gulmohar Park, New Delhi in connection with investigation of the case FIR No. 731/96 under Section 430/336/337 IPC. When these persons reached the first floor. SI Sunil Kumar informed Smt. Veena about the purpose of their visit to check the fresh electric wiring and leakage of current due to electrocution of the daughter of Sh. V.N. Narayan after disclosing identity of each one of them. All these persons were allowed to go inside the room after removing their shoes. The electric switch and the fresh wiring in the bed room were seen. Sh. Ravindra Kumar and Sh. R.K. Tyagi also came up to the first floor to assist Dr. Rajendra Singh. The official photographer Giriraj and the private photographer V.P.Arora were called for taking photographs at the spot. The said two photographers started taking the photographs of electric switch points under directions of SI Sunil Kumar. At this point, Smt. Veena suddenly got provoked and called the activities of the government officials obnoxious and told and threatened that she would not allow them to take photographs and demanded the reels of the shots already taken. The ACP defense Colony told Smt. Veena that one set of all the photographs would be supplied to her after getting them developed. She insisted that she will call her own private photographers and take the photographs of all the above persons present there. She also told that she would not allow anyone to leave that room till then. From 5.30 to around 5.45 PM spot inspection was done and photos were taken. From 5.45 PM till 7.35 PM Smt. Veena kept the above said people wrongfully confined in the bed room and did not allow to make even phone call even on the asking of the ACP. When ACP Baljit Singh tried to come out of that room, Smt. Veena came out in front and stopped him and caught hold of his uniform and did not allow him to go out of the room. At about 7 PM a private photographer came and took photographs of all the person along with a boy. At about 7.30 PM Sh. Tandon, President of Gulmohar Park Residents Association along with Shri Bhan and a Senior Advocate Shri Ane reached there. As demanded by Shri Ane the complaint was shown. The Police party did not have any arrest warrant or search warrant. The ACP informed that they had come to inspect and neither to search nor to arrest. Thereafter, they were allowed to come out. Thus she committed the offence under Sections 186 and 342 IPC by

wrongfully obstructing the said official in discharging their official duties and confining them. After completion of investigation complaint was filed Section 195 of the Cr.P.C. by the Addl. DCP, South Distt. New Delhi vide Annexure 2.

2.2. It is alleged that the police was acting in connivance with the complainant. It was not necessary for them to enter her house in order to investigate. There was no apprehension in the mind of all the eight persons that if they attempted to leave the room, force would be used by the accused to restrain them from leaving the room. Consequently, there was no obstruction in discharging of the public duty for they entered into the house without their being any search warrant. Such an entry amounted to trespass.

3. From the narration of the facts in the complaint, it is apparent that inquiry or investigating team was obstructed in taking the photographs and was confined wrongfully in the house.

4. In so far as the question of trespass and entry without arrest or search warrant is concerned that was permitted by the petitioner. The visit to the first floor or room of the petitioner amount to consent search it has been defined in Black's Law Dictionary as under:-

'Consent Search:- A search made by police after the subject of the search has consented; such consent, if freely and intelligently given, will validate a warrantless search. *Washington v. Chrisman* 455 U.S. 1;102 S.Ct. 812. Consent is not freely and voluntarily given in the fact of colorably lawful coercion, *Bumper v. North Carolina* 391 U.S. 543,88 S.Ct 1788;20 L.Ed 2d 797; *Lo ji Sales Inc v. New York* 442 U.S. 319: 99 S.Ct. 2319 : 60 L.Ed 920 and questions regarding duress or coercion in a consent search are determined by the totality of the circumstances. *United States v. Mendenhall* 100 S.Ct 1870 : 64 L.Ed 2d 497.'

5. Besides the search was undertaken in exigent circumstances for daughter of the tenant on the ground floor has suffered electric shocks and for it was likely to cause such shocks to other persons also. The Black's Law Dictionary states about the search due to exigent circumstances as under:-

'Exigent Circumstances: Situations that demand unusual or immediate action. 'Exigent circumstances' in relation to justification for warrantless arrest or search refers generally to those situations in which law enforcement agents will be unusable or unlikely to effectuate an arrest, search or seizure for which probable cause exists unless they act swiftly and without seeking prior judicial authorization. U.S. v. Campbell C.A.N.Y. 581 F.2d 22. Exception to rule requiring search warrant is presence of exigent or emergency like circumstances as for example presence of weapons in a motor vehicle stopped on highway and such exigent circumstances permit warrantless search and seizure. Chambers v. Maroney 399 U.S. 42 : 90 S.Ct. 1975 : 26 L.Ed 419. Where there are exigent circumstances in which police action literally must be 'now or never' to preserve the evidence of the crime, it is reasonable to permit action without prior evaluation. Raden v. Kentucky 413 U.S. 496 : 93 S.Ct. 2796 : 37 L.Ed 2d 757; New York v. Belton 453 U.S. 454 : 101 S.Ct. 2860 : 69 L.Ed 2d . '

6. It may be mentioned that under Section 165 Cr.P.C. police officer could make search of the source of leakage of electricity leading to electrocution and such a source could not be found otherwise, without undue delay had the permission not been granted. Once permission was granted in such exigent circumstances inspection or investigation and visit of the room for the said purpose and taking of the photographs was justified . To obstruct investigation and taking of the photograph at that stage amounted to obstructing the discharge of public duties.

7. However, there could not be any dispute about the proposition that the provisions under Section 165 Cr.P.C. have to be earnestly followed. This is required to be looked at the time of the trial along with alleged 'obnoxious action' specially in the light of the aforesaid circumstances and when the inspection and search of the first floor premises was allowed by consent. Prima facie there does not appear any action which could be said to be obnoxious action. However final opinion can be formed only on trial. Taking of the photographs of the switch board would certainly neither amount to obnoxious actions which should lead to withdrawal of the consent of visit, inspection or even search nor it would justify detention and confinement of the investigating team. However, calling private photographer and persons of the side of the complainant to assist in investigation

might have created suspicion in the mind of the petitioner leading to her provocation. But the police could take assistance even from such persons in case of need and exigency, as was evident in the circumstances.

8. For the foregoing reasons, and there being sufficient material for strong suspicion, there is prima facie good case to say at this stage that the petitioner has committed offence under Section 186 as well as under Section 342 IPC, for the purpose of framing charge. Consequently, there is no reason for interference with the impugned order. The petition is accordingly dismissed.

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