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Court : Rajasthan

Decided On : Jul-11-1975

Reported in : 1975WLN(UC)271

Judge : K.D. Sharma, J.

Appeal No. : S.B. Criminal Reference No. 118 of 1974

Appellant : Ajit Singh

Respondent : Ram Singh

Disposition : Application allowed

Judgement :

K.D. Sharma, J.

1. This is a reference made by the learned Additional Sessions Judge, Jalore, with a recommendation that the order of the Munsift-Magistrate, Jalore, dated 30-8-73, refusing to grant copies of the statements during the course of investigation may be set aside and the learned Magistrate may be directed to furnish copies of such statements to the petitioner.

2. The reference arises under the following circumstances. A first information report was lodged with the police at police station, Nosra, that Balwant Singh son of Ram Singh non petitioner was murdered by other co-accused in conspiracy with

Ajit Singh petitioner. The police made usual investigation into the case, recorded the statements of the prosecution witnesses and came to a conclusion that Ajit Singh petitioner did not take part in the conspiracy. The investigation agency, therefore, did not put up a charge-sheet, against the petitioner in the court of the Munsiff Magistrate, Jalore. There upon, Ram Singh, non petitioner, filed a complaint against Ajit Singh in the said court under Sections 302 read with Section 109 and 120, IPC. The learned Magistrate took cognizance upon the complaint and after securing the attendance of the petitioner, proceeded to hold an inquiry preparatory to commitment. During the course of inquiry, the petitioner applied for grant of copies of statements of witnesses recorded by the police in the course of investigation of the case under Chapter XIV of the old Criminal Procedure Code. The learned Magistrate refused to supply the copies of the statements to the petitioner for the simple reason that the case against him is being enquired into on the basis of a complaint and the petitioner is not entitled to copies of the statements recorded in the course of investigation. As against this order the petitioner filed a revision-petition in the court of the Additional Sessions Judge, Jalore, who differed from the view taken by the learned Magistrate on this point and made this reference.

3. I have gone through the record and the explanation submitted by the learned Magistrate. I heard the arguments advanced by Shri Jaswant Mal Bhandari for the petitioner and Shri R.R. Vyas for the non petitioner. For the reasons mentioned by the learned Sessions Judge in his reference, I am of the view that the accused is entitled to the grant of the copies of the statements recorded by the police even in cases instituted on complaint but in which there was previous investigation by a police officer under Chapter XIV of the old Criminal Procedure Code. The reason is that if the copies are not supplied to the accused, he will have no opportunity to cross-examine the prosecution witnesses with reference to their previous statements and to contradict them. Denial of such an opportunity is a serious irregularity which may vitiate the entire inquiry or the trial, as the case may be; A similar view has been taken by a Single Bench of this Court in Nanu v. The State 1953 RLW 465.

4. Consequently, the reference is accepted and the impunged order of the learned Magistrate dated 30-8-1973 is set aside and the case is sent back to him with a direction that he will grant copies of statements of all the prosecution witnesses recorded by the police in the course of investigation of this case, on charges, if any, prescribed by law.

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