

Ram Nath Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Sep-08-1989

Reported in : 1989(2)WLN514

Judge : Mohini Kapoor, J.

Appeal No. : S.B. Cr. Petition No. 882 of 1989

Appellant : Ram Nath

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

Mohini Kapoor, J.

1. In a criminal case against the petitioner, the prosecution produced certain cassettes by way of evidence. The accused petitioner prayed that duplicate of the cassettes should be supplied to him. The learned Judicial Magistrate No. 1, Jaipur District Jaipur has ordered that it is not possible to prepare duplicates of these cassettes and the learned Counsel for the petitioner can play and hear the cassettes in the court. It has also been observed that if the petitioner wants, he can himself get duplicate cassettes prepared. In other words he can apply and obtain copies of the cassettes but the court is not in a position to supply the same.

2. Section 207 Cr PC provides for supply to the accused of copy of police report and other documents. This section reads as under:

207. Supply to the accused of copy of police report and other documents : In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the followings:

(i) the police report;

(ii) the First Information Report recorded under Section 154;

(iii) the statements recorded under Sub-section (3) of Section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefore any part in regard to which a request for such' exclusion has been made by the police officer under Sub-section (6) of Section 173;

(iv) the confession and statements, if any, recorded under Section 164;

(v) and other document or relevant extract thereof forwarded to the Magistrate with the police report under Sub-section (3) of Section 173;

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in Clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused,;

Provided further that if the Magistrate is satisfied that any document referred to in Clause (v) is voluminous, he shall, instead of furnishing the accused with a copy there of, direct that he will only be allowed to inspect it either personally or through pleader in Court.

3. Thus, it includes all the documents on which the prosecution relies and is not limited to the FIR and statements under Section 161 Cr. PC only. Any document or relevant extract thereof, forwarded to the Magistrate with the police report has to be supplied to the accused. This has to be supplied to the accused. This has to be supplied without delay and free of cost. When the prosecution is relying upon the

conversation recorded on cassettes then the transcription of the cassettes alone would not amount to compliance of Section 207 Cr. PC.

4. Such a matter arose before Delhi High Court in *S.J. Chaudhry v. State Delhi* Adm 1984 Cr. LJ 864 where in it was held that the supply of cassettes in duplicate to the accused was necessary in order to enable him to play the tape himself and prepare for his defence. Permission of getting the tape recorded conversation heard in the court during trial was considered to be a poor substitute as it would be 'antithesis of preparation of defence which has to start sufficiently well in advance and not on the spur of moment.'

5. The second Proviso to Section 207 Cr. PC does say that if the Magistrate is satisfied that any document referred to in sub Clause (v) is voluminous then instead of furnishing the accused with a copy he can be direct that only inspection shall be allowed. Can the order of the Magistrate be justified as under this Proviso. First of all if the Magistrate is proceeding under this provision than he has to record his satisfaction. Secondly there has to be come genuine difficulty in the preparation of the copy. In this electronic age there is no difficulty in preparing duplicate cassettes. The cost is also not much. The reason given for refusal to supply duplicate cassette does not appear to be proper. Playing and hearing the cassettes in court would not give the required facility for preparation of the defence. There is specific in Section 207 Cr. PC that copy of the police report and other documents should be furnished to the accused without delay and free of cost. When the accused cannot be charged any amount for these documents and documents include spoken evidence, then the cassettes should also be supplied to the accused free of cost. There is no justification in asking him to prepare the same at his own cost.

6. Accordingly, this petition is accepted and it is directed that the Magistrate shall either himself or through the Public Prosecutor get duplicate cassettes prepared immediately and furnish the same to the accused petitioner. It is clarified that only the relevant extract from the cassettes be supplied to the accused-petitioner.