

Arputharaj Vs. State by Inspector of Police, K-1 Anna Nagar Police Station, Madurai.

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Court : Chennai

Decided On : Feb-26-1998

Reported in : 1998(1)CTC409

Judge : S.M. Sidickk, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) -- Sections 161(3), 173(5), 207 and 482; Indian Penal Code -- Sections 147, 148, 307, 323, 324 and 341

Appeal No. : Crl.O.P.No. 2080 of 1998

Appellant : Arputharaj

Respondent : State by Inspector of Police, K-1 Anna Nagar Police Station, Madurai.

Advocate for Def. : Mr. R. Shanmughasundaram, Public Prosecutor.

Advocate for Pet/Ap. : Mr. Rhangaraj for;R. Suresh, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

1. This is an application filed by the petitioner/accused in P.R.C.No.I of 1994 pending on the file of Judicial Magistrate No.VII at Madurai and this application is filed under section 482 of Cr.P.C. to direct the Respondent police to furnish Tamil translation copies of final report and the statement of the doctors recorded under Section 161 of Cr.P.C., the accident report and the wound certificate of Palaniappan.

2. The petitioner is arrayed as accused No.4 in P.R.C.No. I of 1994 on the file of Judicial Magistrate No. VII at Madurai for the offences under Sections 147, 148, 341, 323, 324 and 307 of I.P.C. The only ground that is raged in the affidavit of the petitioner is that the petitioner is an illiterate andhe could not read and write English, and because of his illiteracy he was unable to read and understand the gist of the charges against him and also he was not able to understand the statements of the doctors. Now where in the affidavit it is stated by the petitioner that his advocate was not conversant with English, and his advocate was not able to understand the gist of the charges and the statements of the doctors which are in English. The petitioner has got legal advice and guidance to translate such of those documents, which are in English into Tamil, and notwithstanding the same he has filed this application seeking a direction to the respondent police to furnish Tamil translation of the copies of charge sheet, statements of the doctors, accident Register and wound certificate, and such a direction cannot be granted in as much as there is no averment in the affidavit of the petition stating that his advocate could not understand English and could not translate the documents which are in English in to Tamil.

3. Even bruising aside this point viz., the understanding of English by the lawyer, the law does not require to provide the petitioner /A4 to furnish him with the Tamil translation copies of these documents. The reason is that section 207 of Cr.P.C. states that the Magistrate shall without delay furnish to the accused free of costs, a copy of the police report, the First Information Report, statements recorded under section 161(3) of Cr.P.C. of all the prosecution witnesses whom the prosecution proposed to examine them, the confession statements recorded under section 164 of Cr.P.C. and any other document or relevant extract there of forwarded to the Magistrate with the Police report under section 173(5) of Cr.P.C. Nowhere in

section 207 of Cr.P.C. it has been stated that the Magistrate is bound or the police is bound to furnish Tamil translation copies of such of those documents which are in English.

4. Even ignoring the statutory provision under section 207 of Cr.P.C. let us consider as to whether there is any judicial precedent on this point. The learned counsel for the petitioner has brought to my notice the decision of a single judge of Bombay High Court reported in *Harbindersingh Pritamsingh Viridi v. State of Maharashtra*, 1991 CrL L.J. 241 in support of his contention that the accused on his request must be furnished with English translation of investigation papers. That was a case where there was a notification issued by the Government of Maharashtra on 1.7.1969 by stating that the Government of Maharashtra with effect from 1st May, 1966, determines Marathi to be the language of all Criminal Courts in the State other than the High Court and Criminal Courts in Greater Bombay. Further more it is stated in para one of the said decision that the petitioner/accused as well as their advocates were not familiar with the Marathi language, and so they applied to the sessions court for directions that the translation of the police statements should be furnished to them in English. Such was not a case before us where it is not stated that the advocate was not familiar with English language so as to demand the translation of copies of those documents which are in English. In other words the decision relied on by the learned counsel for the petitioner reported in *Harbindersingh Pritamsingh Viridi v. State of Maharashtra* 1991 CrL.L.J. 241 have no application to the facts of the present case.

5. Then the learned counsel for the petitioner brought to my notice that the persons detained under the Detention Acts are being furnished with the Tamil translation copies of the documents, which are in English, and similarly in Criminal Courts also the accused persons must be furnished with Tamil translation of the documents, which are in English. The detinue in the Detention cases are not given bail for one year and they are at liberty to give representation before the Government or before the Advisory Board, and in such circumstances the Government is duty bound to furnish the translation copies of the documents, which are in English to the persons who were detained under the Detention Acts.

Such was not the case before us. Here is a case where the petitioner is the 4th accused in a Sessions Case who has engaged a counsel and who got bail. It is not stated that his counsel did not know English and therefore no analogy can be taken from the person who was detained under the Detention Acts and apply the same to the facts of the present case.

6. The learned state Public Prosecutor Mr. R. Shanmugasundram has brought to my notice the decision of a Division Bench of our Madras High Court reported in Rajendran and another v. State¹⁹⁹² (2) Cri 755 wherein Their lordships Arunachalan and Pratap Singh, JJ. held as follows:-

'Non-supply of statements recorded under section 161(3) of Cr.P.C. to the accused by itself would not vitiate the trial resulting in acquittal of the accused.

But in cases where circumstances are such that the court may reasonably infer that prejudice has resulted to the accused from the failure to supply the statements recorded under section 161, the court will be justified in acquitting the accused.'

7. The learned State Public Prosecutor Mr. R. Shanmugasundaram has also drawn my attention to the observations made by another Division Bench of our Madras High Court in the decision reported in In Re R. Ramachandran, : AIR¹⁹⁵⁷ Mad⁵⁰⁵ and at the end of para 13 wherein it was held as follows:-

'If witnesses therefore speak in their own language and if the English translations of those statements are not to be considered as statements made by those witnesses, then we do not see how when the witnesses in this case who admittedly must have spoken only in Tamil in Court, the English translation of the Statements recorded by the Judge as the deposition of the witnesses can ever be considered as depositions of these witnesses.'

8. In yet another decision of a Division Bench of our Madras High Court on which reliance was placed by the learned state Public Prosecutor is the one reported in In Re Rengaswamy, : AIR¹⁹⁵⁷ Mad⁵⁰⁸ and at the end of para 9 where in it was laid down as follows:-

'The translation referred to obviously was not a correct one. Translations are subject to errors. If, therefore, statements were recorded in the case diary in the language of the witnesses, will not amount to furnishing copies of statements recorded in the case diary.'

9. It follows from the above decisions that if the statements were recorded in the language of the witnesses then furnishing of translation of those statements will not amount to furnishing copies of the statement as required under section 207 of Cr.P.C. In short furnishing of translation copies cannot be equivalent to the furnishing of copies as required under section 207 of Cr.P.C. A plain reading of section 207 of Cr.P.C. will show that translation is not the duty of the court and only furnishing of the copies is the duty of the court. In the present case no prejudice was caused to the petitioner/A4 since it is not stated nowhere in the affidavit of the petitioner that his advocate did not know English and so he was not able to translate such of these documents in English in to Tamil to the petitioner/A4.

10. Considering the above facts and circumstances of the case I am to hold that the petitioner/A4 is not entitled to the relief prayed for in this petition directing the respondent police to furnish Tamil Translation copies of those documents which are in English, and so this petition has to be dismissed, and consequently I answer this point as against the petitioner.

11. In the result this petition is dismissed.