

In Re: Natarajan

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Court : Chennai

Decided On : Nov-21-1966

Reported in : 1967CriLJ1644

Judge : Venkataraman, J.

Appellant : In Re: Natarajan

Judgement :

ORDER

Venkataraman, J.

1. This revision petition has been filed by one Natarajan against his conviction under Section 4(1) (a) of the Madras Prohibition Act, and Section 447 I.P.C. The allegation against him is that he had trespassed into the premises of the Harbour for transporting three bottles of whisky without a permit. He was arrested with the three bottles of whisky by a Sub-Inspector (P.W. 2) within the Harbour premises at 4-30 p.m. on 22-9-1966. P. W. 1 is another witness who was present besides others. The accused denied the offence. The learned Magistrate accepted the prosecution evidence, convicted the accused and sentenced him to rigorous imprisonment for three months and a fine of Rs. 100 under Section 4(1) (a) of the Madras Prohibition Act, and rigorous imprisonment for two weeks under Section 447 I.P.C. to run concurrently with the other sentence. This revision petition has been preferred by the accused.

2. The only point urged before me by the learned Counsel for the petitioner, is that the Sub Inspector (P.W. 2) has admitted that he had jotted down some notes while examining P.W. 1 and another person Mani, at the scene of occurrence, and that their statements were reduced to writing under Section 161 CrI. P.C. only later at the police station after destroying the notes. The accused has been supplied only with copies of the statements prepared at the police station and not copies of the notes. The learned Counsel urges that this has vitiated the trial, and has relied on a number of decisions in support of his contention.

3. Section 161(3) CrI. P.C. says that the police officer may reduce into writing any statement made to him in the course of an examination under the section, and if he does so he shall make a separate record of the statements of each such person whose statement he records. Section 173(4) CrI. P.C. as amended by Act 26 of 1955, requires the officer in charge of the police station to furnish to the accused inter alia a copy of the statements recorded under Sub-section (3) of Section 161 CrI. P.C. of all persons whom the prosecution proposes to examine as its witnesses. The question therefore is whether the statement prepared at the police station is the statement which was reduced into writing or only the earlier notes which were jotted down. The question may have to be answered with regard to the circumstances of each case and so far as this case is concerned, it does not appear that the notes which were jotted down would themselves have been intelligible to another person. They might have been just enough to enable the Sub Inspector to remember the essential particulars. Section 161 (3) does not seem to prevent the Sub Inspector from making just a few jottings for refreshing his own memory. So far as this case is concerned, I feel no difficulty in holding that the statements which were reduced into writing at the police station immediately after the Sub Inspector reached there, are the statements relevant for the purpose of Section 161(3). It has also to be emphasised that the material circumstances had been brought out in the mahazar which was prepared at the scene of occurrence itself.

4. The circumstances in the cases cited by the learned Counsel were different from those of the present case, and those cases do not therefore really help him. The cases are : Pulukuri Kotayya v. Emperor ILR (1948) Mad 1 : AIR 1947 P.C.

67, Lingappa v. State : AIR1951 Mad685 , Sugali Latchigadu v. State : AIR1952 Mad229 and Rangaswami Goundan v. State : AIR1957 Mad508 .

5. In ILR (1948) Mad 1 : AIR 1947 PC 07 the Sub Inspector did not initially furnish the note book which contained the earliest statements made by the five prosecution witnesses (at the inquest), and, in fact, maintained that so such statements were recorded. What was furnished to the accused was only copies of the statements made later to the Circle Inspector of Police. But at a later stage of the trial, when the Sub Inspector was examined, he himself produced the note book and it was found that there no vital discrepancies between the statements contained in the note book and the statements of the witnesses in the witness box. Their Lordships of the Privy Council pointed out that, where the statements are never made available to the accused, an inference, which is almost irresistible, arises of prejudice to the accused. However, they were satisfied that, in the peculiar circumstances of the case, no prejudice was occasioned to the accused by the failure to produce in proper time the note book. It was on a different point that their Lordships remitted the appeal for rehearing by the High Court.

6. : AIR1951 Mad685 , was a case where the statements under Section 161 CrI. P.C. were not made available to the accused at all.

7. : AIR1952 Mad229 was a case where the Sub Inspector made short notes of the statement of the witnesses at the inquest and they were destroyed even before the arrival of the Circle Inspector. The present case is distinguishable, because here the notes were only brief and were actually reduced into writing of the police station and copies of the statements prepared at the police station were furnished to the accused.

8. : AIR1957 Mad508 was a case where statements were recorded in Tamil, but only translations in English of those statements were furnished to the accused. It was held that failure to furnish the Tamil statements which were the original statements, vitiated the trial. That is not the case there.

9. Apart from the point made by the learned Counsel, there is no reason to interfere with the convictions. The revision petition is, however, admitted on the

question of sentence.

10. This was the first offence. Hence the period of imprisonment is reduced to the period already undergone. The fine and the default sentence will remain. Time for payment of fine, one month from this date.

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