

Topic: Privilege Against Self-Incrimination Under Article 20 (3)

Name of the Case: State of Bombay v. Kathi Kalu Oghad, AIR 1961 SC 1808

Bench: Chief Justice Bhubaneswar P Sinha, Justice AK Sarkar, Justice K Subbarao, Justice KN Wanchoo, Justice KC Dasgupta, Justice Raghubar Dayal, Justice N Rajagopala Ayyangar, Justice JR Mudholkar

Issue: Whether Article 20 (3) violated when the accused is directed to give his specimen handwriting, or signature, or the impression of his palm and finger?

Fact of the Case: Specimen handwritings of the accused had been taken during investigation while the accused was in police custody. This has been excluded from the consideration by court below on the ground that the obtaining of such signature offended Article 20 (3).

Ratio: The court ruled that Article 20 (3) is not violated in any of the above situations. The court stated that "self-incrimination must mean conveying information based on the personal knowledge of the person giving information and covers only personal testimony which must depend upon his violation."

The court stated that to be a witness may be equivalent to furnishing evidence in the sense of making oral or written statement, but not in the larger sense of expression as to include giving thumbs impression or impression of palm or foot or finger or specimen writing or exposing a part of body by an accused person for the purposes of identification.

The court emphasised that it is as much necessary to protect an accused person against being compelled to incriminate himself, as to arm the agent of law and the lower courts with legitimate powers of bringing offenders to justice. The court stated regarding production of documents in the possession of the accused, that if it is a document which is not his statement conveying his personal knowledge relating to the charge against him, he may be called upon by the court to produce that document.

Several types of evidence are excluded from the purview of Article 20 (3). This is done with a view to draw a balance between the exigencies of investigation of crimes and need to safeguard the individual from being subjected to 3rd degree methods.