Ram Dhiraj vs The State on 22 September, 1955

Equivalent citations: AIR1956ALL167, 1956CRILJ362, AIR 1956 ALLAHABAD 167

ORDER

Randhir Singh, J.

1. This is an application in revision against an order of a Magistrate, convicting the applicant under Section 34, Police Act and sentencing him to a fine of Re 1/-.

2. It appears that the applicant was charged with an offence of obstruction to road by placing his rickshaw on the road on 20-9-1953, at 11-30 A.M. The case was tried summarily under Section 34, Police Act and the applicant was convicted on a plea of guilty and was sentenced to a fine of Re. 1/- by the Magistrate.

The applicant went up in revision to the Sessions Judge and he stoutly denied having entered any plea of guilty in the trial Court and it was urged on his behalf that the record of the plea of guilty was wrong. The Sessions Judge, however, asked for a report from the Magistrate ,and declined to interfere. The applicant, has now come up in revision to this Court.

3. In the application for revision made by the applicant, the applicant has given details of certain proceedings taken in this Court by him when he was arrested by the Station Officer, Haz-ratganj, on 20-9-1953. It was alleged by the applicant in the application for 'habeas corpus' which he presented to this Court that he had been taken into unlawful custody by the police and was kept in confinement after having been given a thorough beating.

The cause of the alleged highhandedness of the police was said to be the applicant's refusal to oblige the police by making a certain statement in a case in which he was cited as a witness lor the prosecution. During the hearing of the application for 'habeas corpus' certain enquiries were ordered to be made by this Court and it appeared that the applicant had received a number of injuries which were found on his body on a medical examination and that the police had acted highhandedly in keeping the applicant under confinement.

The plea of the Station "Officer in that case it appears was that the applicant was arrested at about 9 P.M. in the evening of 20-9-1953, in connection with a quarrel on the street. I had the record of the 'habeas corpus' application sent for from the office and a perusal of the judgment in that case clearly shows that the applicant had very vehemently refuted the allegations made on behalf of the police and his own allegations were found to be correct.

The result of the proceedings in the 'habeas corpus' application is not relevant in this application for revision but they do indicate the circumstances under which the application for 'habeas corpus' was made with regard to some occurrence 'on the same day on which the offence for which the applicant has been convicted in the present case was committed, and, it appears to me rather strange that the applicant who was vehemently defending his right as a free citizen should have so meekly submitted a plea of guilty before a learned Magistrate when he was tried under Section 34 of the Police Act for the same-offence for which he is said to have been taken into custody on 20-9-1953.

4. The record of the summary trial is very brief and in column No. 8 in the printed form against the heading' "Reply of the accused and his statement, if any" we find a note in the words "Pleads guilty". The words used by the accused in his statement before the Court or the exact words in which the plea was put forward are not to be found from the summary record. It has been observed in some cases (vide 'Sia Bam v. Emperor', AIR 1935 All 217 (A) that Section 342, Criminal P. C. applies both to summons and warrant cases and that it is the duty of the Magistrate to record not only the plea of the accused but also his examination, if any.

I agree entirely with the observations made in this reported case, with respect if I may say so, and it was the duty of the learned Magistrate who tried the applicant to put down the exact words which we're used by the applicant while putting in a plea of guilty. It is possible sometimes that the words used by the accused are capable of two interpretations and it is difficult to know what was intended by an accused if his words are not to be found in the record.

5. In the present case the learned Magistrate has naturally taken the stand as appears from the report submitted by him to the Sessions Judge that the applicant did enter a plea of guilty. As remarked above, it is difficult to find out what was meant by the applicant by the words which he used when he was examined by the learned Magistrate and, in the absence of a record, there is an element of reasonable doubt in the matter as to whether the applicant did mean to plead guilty. The circumstances under which the applicant was prosecuted further strengthen the belief that he would not have meant to enter a plea of guilty.

6. I, therefore, allow the revision and set aside the conviction and the sentence, of fine.

The fine, if paid, shall be refunded.