Ram Pukar Singh Watchman vs The State on 25 September, 1953

Equivalent citations: AIR1953ALL161

ORDER

Desai, J.

1. The applicant has been convicted under sections 161 and 116 I. P. C. by the courts below and sentenced to a fine of Rs. 100/-. He has been found guilty of having offered a bribe to the Assistant Superintendent Watch and Ward Department. There is no dispute about the facts which have been proved beyond any doubt.

The applicant challenges his conviction on some legal grounds. One is that he was not informed by the trying Magistrate that he had right to examine himself in defence. It has been held by a Pull Bench of this Court -.'Raja Ram v. State' , only a couple of days ago that a court is not bound to inform an accused, who is being prosecuted under the Prevention of Corruption Act, that he had a right to examine himself in defence and that his conviction cannot be quashed merely on account of the court's refusal or failure to inform him of the right.

The occurrence took place on 4-11-49. The police investigated the case and finding it proved requested the Superintendent, Watch and Ward, to sanction the prosecution of the applicant. On 20-8-1950 the Superintendent, Watch and Ward, sanctioned the prosecution. Then the police sent up the applicant for trial. The learned Magistrate rightly took cognizance of the offence on the sanction of the Superintendent. In the report made by the police soliciting his sanction it was stated that the applicant had offered Rs. 30/- as bribe to the Assistant Superintendent, Watch and Ward. This information was sufficient for the purpose of deciding whether to sanction the prosecution. The learned Magistrate wrongly said in his judgment that after duly obtaining the Additional District Magistrate's permission the police submitted the charge sheet against the applicant.

On 20-3-1950 the police referred the complaint made against the applicant to the Additional District Magistrate and solicited his sanction for investigating into the complaint. On the same date the Additional District Magistrate authorised the police to investigate. It seems that the learned Magistrate did not carefully read the documents on the record, did not realise that what the Additional District Magistrate had sanctioned was the investigation by the police into the complaint against the applicant and not his prosecution, and that the sanction for his prosecution had been given by the Superintendent, Watch and Ward. The mistake committed by the learned Magistrate is of no consequence. So long as there was a sanction given by the proper authority for the applicant's prosecution, it does not matter if the learned Magistrate thought that his prosecution had been sanctioned by some other authority.

2. This signature of the Superintendent, Watch and Ward, on the sanction has not been proved. But there was no dispute about the signature. The police had submitted the report to him and on receipt of the sanction purporting to have been given by him on it prosecuted the applicant in the court of the, learned Magistrate. The learned Magistrate was justified in presuming that the sanction purporting to have been given by the Superintendent, Watch and Ward, was in fact given by him. Once he took cognizance of the offence, no question of proving the sanction could arise subsequently. Whether the sanction had been given or not was to be seen before taking cognizance of the offence and not after it. If there were no sanction, no cognizance of the offence could be taken at all. The sanction was required only for the purpose of faking cognizance of the offence; once the cognizance was taken its utility was exhausted and it was no longer needed, either during the enquiry into the guilt of the accused or for the purpose of convicting him. Whether an accused is guilty or not does not depend upon whether his prosecution was sanctioned or not; the existence of sanction is not an ingredient of any offence. Nor is it the law that an accused cannot be convicted unless the sanction by the appropriate authority of his prosecution has been proved.

After the court has taken cognizance of the offence, all that the prosecution has to prove in order to secure conviction of the accused, is that he committed the crime, and there is no provision obliging it to prove any other fact such as the sanctioning of his prosecution. Only the court had to be satisfied of the existence of the sanction, and that too before taking cognizance, and once the prosecution satisfied it and it took cognizance, the prosecution could not be required and is not required by any statutory provision, to satisfy it again or the accused. The accused is not the person required to be satisfied by it; as a matter of fact the law does not contemplate his presence even when the prosecution satisfies the court.

There is a presumption in favour of regularity of official acts. The learned Magistrate could presume that the sanction was given by the Superintendent as it purported to be that the police report was placed before, and considered by, him and that it was he who signed the sanction, It was open to the applicant to rebut the presumption, But not only did he not lead any evidence to prove that the signature on the sanction was not that of the Superintendent but also he- did not question the genuineness of the signature. When there was no controversy at all before the learned Magistrate about the sanction having been given by the Superintendent, Watch and Ward, the prosecution was not required to do anything such as producing evidence to prove the signature.

3. There was no other point raised before me. The application is dismissed.

4. Before parting with the case, I must remark that the sentence inflicted by the learned Magistrate was wholly inadequate. The offence of offering a bribe must be dealt with severely. The learned Magistrate had no justification for not inflicting a sentence of imprisonment upon the applicant. The offence committed by him could not be adequately punished by only a fine, and that too of Rs. 100 only.