

## Satyapal Thaper vs State on 7 July, 1950

**Equivalent citations: AIR1951ALL481, AIR 1951 ALLAHABAD 481**

ORDER

Wali Ullah, J.

1. The applicant Satyapal Thapar has been convicted of an offence Under section 170, Penal Code, and sentenced to one year's rigorous imprisonment and a fine of Rs. 500, in default to two months' further rigorous imprisonment. His appeal to the learned Sessions Judge was unsuccessful.

2. It appears that on or about 23-11-1947,, some one posing as an Inspector of the Chemical Directorate, New Delhi, visited Shikohabad and inspected the firms known as Bast Indian Soap Factory, Shikohabad Soap and Chemical 1951 A11./61 & 62 Works, Jai Bharat Soap Factory and C. P. Soap Factory. Thereafter he also visited Firozabad in the Agra district and there also inspected a few soap factories. At both these places the visitor gave out that he was an Inspector of the Chemical Directorate, New Delhi. Sometime later Mr. U. R. Bhatt, the Junior Field Officer, visited Shikohabad. He was then informed that one Mr. "Paul" had already inspected the soap factories at Shikohabad sometime back. Mr. Bhatt was surprised to hear this and he reported the matter to his superior officers. Subsequently as a result of investigation by the C. I. D. Inspector, Mr. B. N. Shukla, the applicant was arrested on 26-1-1948, and an identification parade was held on 28-1-1948 in the office of Mr. J. B. Pillai, P. W. 1, who is the head of the Statistical Branch of the D. G. I., New Delhi, in which the applicant is employed as a clerk. At the identification parade the applicant was mixed with his twin brother Dharam Pal, a clerk working in another section of the Directorate. There were also seven other persons, outsiders, who were mixed with him. Dhan Prakash seems to have been taken out of the parade by Mr. Pillai. As a result of those proceedings out of five witnesses, four identified the applicant and made no mistake. The fifth witness named Makkhan Lal stated that he could not identify anyone as he saw the person at Shikohabad only for three or four minutes, when he was taking his meals and later he left in a tonga immediately. In due course the applicant was sent up by the police for prosecution Under section 170, Penal Code. At the trial held before a learned Magistrate, first class, the applicant put up his defence to this effect. He stated that he was falsely implicated by Mr. Bhatt, Junior Field Officer, D. G. I. on account of enmity. He further stated that the prosecution witnesses had deposed against him, as they were under the influence of Mr. Bhatt. He denied that he had visited Shikohabad and inspected any of the factories as alleged by the prosecution. In support of his plea, he had examined one witness Mr. K. N. Johary, stenographer of the Industries Department, Government of India, who simply tried to show that on one occasion Mr. Bhatt and the applicant Satyapal had an exchange of hot words. [Here his Lordship considered the evidence and proceeded.]

3. Learned counsel for the applicant has strenuously contended, in the first place, that the trial of the applicant is vitiated in law, inasmuch as he has been convicted of having personated in four

different factories; in other words, the contention of the learned counsel is that the trial of the applicant has been in respect of at least four distinct offences committed at four different places, and this, according to the learned counsel, is contrary to the provisions of the Criminal P. C. Learned counsel has invited my attention to the charge as framed by the learned Magistrate on 24-6-1948, and has contended that the applicant has been seriously prejudiced because the charge has been framed in very vague terms, as it refers to soap factories of two persons i. e. "the soap factories of Dharam Pal and Lokman Singh and others" I have considered this contention of the learned counsel carefully. In this connection reference may be made to the provisions of Section 170, Penal Code. They are :

"Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both."

The charge framed against the applicant in the present case clearly mentions the fact that the applicant pretended to hold the office of an Inspector of the Chemical G. D. I. and Section and that in that assumed character, he inspected certain soap factories. It would appear that Section 170 punishes a person who pretends to hold any public office as a public servant--and does any act in the assumed character of a public servant. The act of pretending to hold a particular office as a public servant alone does not make a person punishable unless that person in such an assumed character does or attempts to do some act under colour of such office. The act or acts done by the person who personates a public servant merely gives a clear indication that the person has misused his position, i. e. he has done some overt act in exercise of the authority of the assumed public servant. It seems to me that it is wholly immaterial whether such a person indulges in one act only or in a series of acts. The gist of the offence consists in the false assumption of the role of a public servant. Further, when a person "falsely personates" any other person he does not necessarily act fraudulently or with any dishonest intention. Whether or not he makes any gain out of his activities while he poses as a public servant is wholly immaterial. It follows, therefore, that the number of acts done by such a person is also wholly immaterial. It cannot be said that in doing various acts successively the person personating is successively committing distinct offences. In my view, therefore, there is no force in the contention of the learned counsel that the trial is vitiated on account of the fact that more than three distinct offences have been tried together. Assuming for the sake of argument that each, act done by such a person in these circumstances technically constitutes a distinct offence,; the question would arise whether or not the various acts done are acts done in the course of the same transaction. This, as is well settled, is a question dependent on the circumstances of each case. In the present case the evidence has made it clear that the visits of the so called Inspector of the Chemical Directorate to Shikohabad and Firozabad took place in quick succession and on one and the same day, It can very well be inferred that all the activities at Shikohabad as well as those at Firozabad were carried out in pursuance of one dominant idea. It would thus follow that all the acts done by the imposter would be acts done in the course of the same, transaction. The trial of the applicant for a number of distinct offences committed in the course of one and the same transaction would certainly be permissible Under section 236, Criminal P. C.

4. In either view of the case, therefore, it seems to me that there is no force in this contention of the learned counsel. I may add, in passing that this contention does not seem to have been urged on behalf of the defence in any of the two Courts below. [His Lordship then considered the contention that the identification proceedings held on 28-1-1948, before Mr. Pillai P. W. 1, were not in accordance with law and that they have seriously prejudiced the case of the applicant and agreed with the views expressed by the Courts below that the identification proceedings were quite fair and proper. After hearing the plea for reduction of the sentence his Lordship concluded:] Considering all aspects of the question it seems to me that six months' rigorous imprisonment together with the fine of Rs. 500 and in default of payment of fine to two months' rigorous imprisonment would meet the ends of justice.

5. I accordingly allow this application to this extent that I affirm the conviction of the applicant Under section 170, Penal Code, but reduce the sentence from one year's rigorous imprisonment to six months' rigorous imprisonment. I maintain the sentence of fine as well as the term of imprisonment in default of payment of fine. With this modification the application is dismissed. The applicant is on bail. He must, surrender and serve out the rest of the sentence..