

State Of Uttar Pradesh vs Vyas Tewari on 17 September, 1980

Equivalent citations: AIR1981SC635, 1981CRILJ38, 1980SUPP(1)SCC433, 1981(13)UJ168(SC), AIR 1981 SUPREME COURT 635, 1981 SCC(CRI) 361, 1980 CRIAPPR(SC) 368, 1980 SCC(SUPP) 433, 1981 2 SCC 483, 1981 ALLCRIR 453, 1981 UJ (SC) 168, 1981 CHANDLR(CIV&CRI) 83, (1981) MAD LJ(CRI) 495, (1981) 2 SCJ 183, (1980) ALLCRIR 453, (1981) SIM LC 129, (1981) SC CR R 97

Bench: O. Chinnappa Reddy, R.S. Sarkaria

JUDGMENT

R.S. Sakaria and O. Chinnappa Reddy, JJ.

1. We have heard Mr. Bhat, learned Counsel for the appellant State. No one has appeared on behalf of the respondent despite service of notice. The impugned judgment of the High Court, dated 12-3-73, follows an earlier decision of that Court in Durga Prasad v. State (1971) A.W.R. (H.C.) 17. That decision was reversed by this Court as per its judgment reported in 1976 (1) S.C.R. 881. The matter was again thrashed out by this Court in Balkishan A. Davidayal v. State of Maharashtra Crl. Appeal Nos. 208 and 209 of 1974 decided on July 31, 1980. Now, it is settled law that an officer of the Railway Protection Force making an inquiry under Section 8(1) of the Railway Property (Unlawful Possession) Act, 1966 is not a police officer conducting an investigation under the Criminal Procedure Code. This being the true position the ban under Section 162, Crl. Procedure Code against the evidential use of statements, including the prohibition against signing of statements recorded in the course of police investigation, is not attracted to statements recorded by an officer of the Force making an inquiry under Section 8(1) of the Act.

2. On this short ground, we allow this appeal, set aside the judgment of the High Court and send the case back to it with the direction that it should restore Crl. Revision No. 12 of 1971 to its original number and decide the matter afresh after hearing the parties, in the light of the above observations and the law laid down by this Court in 1975 (1) S.C.R. 881 and in Crl. Appeals 208 & 209 of 1974 decided on July 31, 1980. The High Court shall, issue notice to the respondent, again, who have been proceeded against ex-parte in this Court.