

State (Delhi Administration)

Vs

Vishwanath Lugnani and Others

Criminal Appeal No. 104 of 1975

(A. C. Gupta, P. S. Kailasam JJ)

30.07.1980

JUDGMENT

GUPTA, J. -

1. This appeal is from an Order of the Delhi High Court rejecting the revision petition made by the Delhi Administration against an Order of the Additional Sessions Judge, Delhi, dated May 11, 1973. By the said Order the Additional Sessions Judge had closed the prosecution case rejecting a prayer for adjournment made on behalf of the prosecution on the stand that it was made clear in the earlier Order dated April 12, 1972 that no further adjournment would be allowed. The relevant portion of the Additional Sessions Judge's Order is as follows :

Statement of Shri K. A. Rajagopalan, the I.O. of the case has been recorded. No other witness is present today. An application has been moved by the PP, Shri Mahajan stating that Sarvshri Richard Donovan Delville Strecth, Manager of Barclay's Bank Transval, M. J. Oliver, Accountant of the said Bank and I. C. Morris, another employee of the said Barclay's D. C. O. London Bank, residents of London be ordered to be examined on commission. As observed earlier no prosecution witness is present. The learned PP also produced a letter from his record which he says he had received from the Government Examiner of Questioned Documents, 25, Akbar Road, New Delhi. This letter is addressed to me but is being produced by the PP from his own record. In the said letter dated May 7, 1973 which apparently had been handed over to the prosecution by Shri S. K. Sharma on May 7, 1973, it is mentioned that the records of the case are lying in Simla. No reason is coming forward as to why the prosecution did not make any effort to produce the record from Simla between May 7, 1973 till today or why did the prosecution not care to get in touch with the Government Examiner till as late as May 7, 1973 or to get the records from the relevant office. No reason is coming forward as to why did the prosecution not care to make an application for examination of the witnesses on commission in London earlier or as to why Mr. T. M. Salian who is sought to be produced by the prosecution is not present in court today. In my view the prosecution has been most negligent and no adjournment ought to be allowed. The case in hand is one of the old cases pending in my court and I do not find any justification for adjourning the case any further.

The allegations against the accused relate to the year 1968.

2. Rejecting the revision petition, the High Court points out :

The prosecution had taken four years before the committing court to examine three prosecution witnesses and had taken been fifteen months to produce 14 witnesses.

3. It may be debatable whether some of the general observations made in the two orders were unwarranted. We are of the opinion that in the circumstances of the case the order of the Additional Sessions Judge cannot be questioned as wrong or unreasonable and that the High Court was perfectly justified in affirming it.

4. The appeal is therefore dismissed.

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