

State of Uttar Pradesh

Vs

Vyas Tewari

Criminal Appeal No. 21 of 1974

(O Chinnappa Reddy, R. S. Sarkaria, JJ)

17.09.1980

JUDGMENT

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 March 12, 1973, follows an earlier decision of that Court in Durga Prasad v. State. That decision was reversed by this Court as per its judgment in State of Uttar Pradesh v. Durga Prasad. The matter was again thrashed out by this Court in Balkishan A. Devidayal v. State of Maharashtra. 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, Criminal 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 Criminal Revision 12 of 1971 to its original number and reduced the matter afresh after hearing the parties, in the light of the above observations and the law laid down by this Court in State of U. P. v. Durga Prasad and in Balkishan A. Devidayal v. State of Maharashtra. The High Court shall, issue notice to the respondent, again, who have been proceeded against ex parte in this Court.

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