

State of T.N.

Vs

M. A. Waheed Khan

Civil Appeal No. 2609 of 1996

(Kuldip Singh, K. T. thomas JJ)

01.08.1996

ORDER

1. M. A. Waheed Khan, the respondent in the appeal herein, was serving as Inspector of Police in the State of Tamil Nadu. Disciplinary proceedings were initiated against him on the following charges :

"(i) Highly reprehensible conduct in flouting the provisions of Section 160(8)(sic) CrPC and Standing Instructions of the Director General of Police in having allowed one Rani, wife of Ramalingam and Kasi Ammal of Elanangur Village to remain at the police station and asked them to have their bed within Chidambaram Town Police Station premises on the night of 25-3-1983.

(ii) Gross misconduct and outrageous behaviour with a woman by name Rani (19), wife of Ramalingam of Elanangur Village on the night of 25-3-1983 at Chidambaram Town Police Station and outside the police station."

2. During the pendency of the disciplinary proceedings, he was tried by the criminal court for the offences under Sections 166, 354, 365 and 366 of the Indian Penal Code. As a result of the disciplinary proceedings, he was dismissed from service. In the criminal proceedings, the trial court convicted him under Sections 166 and 354 IPC. He was, however, acquitted by the appellate court.

3. The respondent challenged the order of dismissal before the Tamil Nadu Administrative Tribunal. By its order dated 10-1-1995, the Tribunal set aside the order of dismissal on two grounds. The Tribunal came to the conclusion that the respondent was acquitted by the criminal court on similar facts. The Tribunal also held that there was no evidence before the Enquiry Officer to prove the charges against the respondent. The Tribunal reached the said findings on the following reasoning :

"It is seen from the orders in PR 22/83 dated 6-2-1984 of the Deputy Inspector General of Police and the orders of the Inspector General of Police in 86966/AP2/84 dated 16-10-1984 that the ladies allegedly detained in the police station had turned hostile and the finding is based on the statement during the preliminary enquiry which they had contradicted at the enquiry. The findings in the disciplinary enquiry have to be based on the evidence recorded at the enquiry and not the statements-recorded during any previous investigation or preliminary enquiry. If the witnesses contradict themselves, the previous statements can be used to discredit them, but such previous statements by themselves cannot become the evidence if they are not consistent with the evidence at enquiry of the witnesses."

4. We have heard learned counsel for the parties. We are of the view, that the Tribunal fell into patent error. The criminal charge and the charge in the departmental enquiry were entirely different. The appellate court in the criminal case came to the conclusion that since the two ladies had not supported the prosecution case, the charges against the appellant were not proved. In the judgment, the criminal courts have, however, accepted that one of the ladies, namely Rani, visited the police station at midnight allegedly to find out as to what had happened to the other lady (Rani's sister-in-law), who was already in the police station. When the two ladies were admittedly at the police station at night, no fault can be found with the charges, as framed in the departmental enquiry. The Tribunal further fell into patent error in holding that it was a case of "no evidence". It is a settled proposition of law that strict rules of evidence are not applicable to departmental enquiries. Before the Enquiry Officer, the statements of both the ladies were recorded. He appreciated the evidence in the light of their earlier statements made in the preliminary enquiry. In this view of the matter, it is not correct to say that there was no evidence before the Enquiry Officer.

5. We are, therefore, of the view that the Tribunal was not justified in setting aside the order of dismissal in the disciplinary proceedings. We allow the appeal, set aside the order of the Tribunal and restore the order of dismissal passed against the respondent. No costs.