

Laxmi Narain Vs Union of India (UOI)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: May 13, 1997

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 109

Gold (Control) Act, 1968 â€” Section 66, 74, 82

Penal Code, 1860 (IPC) â€” Section 323, 330

Citation: (1999) 85 ECR 576 : (1999) 81 ECR 199 : (1999) 108 ELT 626

Hon'ble Judges: H.S. Bedi, J

Bench: Single Bench

Advocate: R.S. Mittal and Arti Gupta, for the Appellant; B.S. Bhalla, A.S.C., for the Respondent

Judgement

H.S. Bedi, J.

On 3rd May, 1970, Ram Chander, S.H.O. Police Station Bhiwani City, apprehended Jagat Singh and Kumari Shobha Rani,

near Rail-way Station, Bhiwani. On the personal search of the two, the S.H.O. recovered 50 gold sovereigns from Jagat Singh and 100 sovereigns

from Shobha Rani. He took into possession the old sovereigns and also arrested these two persons u/s 109 of the Code of Criminal Procedure.

On the following day i.e. 4th May, 1970, the Inspector, Central Excise, Bhiwani took into possession the above said gold sovereigns which were

subsequently seized u/s 66 of the Gold (Control) Act, 1968 (hereinafter called "the Act"). Jagat Singh and Sobha Rani then gave statements to the

authorities that the gold was to be delivered to the petitioner, on which the house and shop of the petitioner were also searched, but nothing

incriminating was found. The petitioner was, however, arrested and a confessional statement taken from him under coercion, on which the

petitioner filed a complaint under Sections 330/323 of the Indian Penal Code against Ram Chander S.H.O. The Chief Judicial Magistrate,

Bhiwani, in his order dated 17-11-1980 held that the S.H.O. had given a beating to the complainant i.e. the present petitioner while he was in

police custody and the charges u/s 330/323 of the I.P.C. stood proved. The Assistant Collector of Central Excise, Rohtak, vide his order dated

21st February, 1997, nevertheless imposed a penalty of Rs. 2000/- on the petitioner in terms of Section 74 of the Act on the strength of his alleged

confessional statement dated 5th May, 1970 (a copy of that order has been appended as Annexure P-2) and an appeal against the order

Annexure P-2 was also dismissed by the Collector of Central Excise, Chandigarh, vide his order dated 16th December, 1977 (Annexure P-3 to

the petition). In another proceeding u/s 74 of the Act, the Deputy Collector of Central Excise and Customs, Chandigarh also imposed a penalty of

Rs. 5,000/- on the petitioner as also Jagat Singh and Kumari Shobha on the basis of the confessional statement made on 5th May, 1970. A copy

of this order has also been appended as Annexure P-4 to the petition. The appeal filed by the petitioner with regard to this order was also

dismissed by the Collector, Customs and Central Excise, Chandigarh vide Annexure P-5 dated 14th December, 1977. Aggrieved by the two

orders Annexures P-3 and P-5 the petitioner moved two separate petitions u/s 82 of the Act addressed to the Secretary, Government of India

and as they had been filed beyond the limitation period of six months, an application for condonation of delay was also enclosed. These petitions

were duly received in the department on 5th October, 1978 and were disposed off by Shri J. Dutta, Addl. Secretary to Government of India in the

Ministry of Finance vide orders enclosed as Annexure P-8 and P-9. The officer accepted the revision petition against the order Annexure P-3 vide

order dated 4-6-1981 Annexure P-8 holding that the statement of the petitioner made on 5th May, 1970 had been taken from him under coercion

and could not be relied upon, whereas the revision petition against the order Annexure P-5 was rejected vide an order Annexure P-9 of even date

holding that the said petition was time barred as having been filed beyond six months and that no ground for the condonation of delay had been

spelt out. It is against this impugned order Annexure P-9 that the present petition has been filed.

2. Notice of motion was issued and the reply has also been filed in which it has been admitted that the revision petition against the order Annexure

P-3 had been entertained and decided on merits whereas the one against the order Annexure P-5 had been dismissed as being time barred.

3. It has been argued by Mr. R.S. Mittal, the learned Senior Counsel appearing for the petitioner that the order Annexure P-8 had been made in

favour of the petitioner on the premises that confessional statement dated 5-5-1970 had been taken from the petitioner under duress and as such,

could not be relied upon against him. He has urged that the order Annexure P-4 by which a penalty of Rs. 5000/- had been imposed was also

based upon this very confession and as such, it was not open to the authorities to dismiss this petition against the order Annexure P-9 and that the

delay in filing the revision petition ought to have been condoned as an application for condonation of delay had also been filed.

4. As against this, Mr. Bhatia, the learned Additional Standing Counsel for Union of India, has supported the order of the Central Government.

5. I have considered the arguments of the learned Counsel for the parties and find that the present petition deserves to succeed. Once the Central

Govt. had accepted the revision petition vide order Annexure P-8 on the plea that the confessional statement which was the only basis for imposing

the penalty, could not be relied upon, it was not open to him to dismiss the second revision petition vide Annexure P-9 on the ground that it was

time barred. The assertion made in the application that the first petition had been wrongly entertained due to over-sight, cannot be accepted as

both the revision petitions Annexures P-3 and P-4 had been accompanied by applications for condonation of delay.

6. This petition is allowed, the order Annexure P-9 is quashed, but in the light of the fact that the matter has gone from one authority to another

since 1980 and a penalty of only Rs. 5000/- had been imposed, I deem it proper that this matter should conclude now rather than send the case on

remand. The order Annexure P-5 as also Annexure P-9 are accordingly, quashed,