

(1999) 11 AHC CK 0172

Allahabad High Court

Case No: Criminal Miscellaneous Application No. 5695 of 1999

Virendra Singh

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision: Nov. 11, 1999

Acts Referred:

- Constitution of India, 1950 - Article 20(3)
- Foreign Exchange Regulation Act, 1973 - Section 56, 9

Citation: (2000) CriLJ 2240 : (2000) 3 RCR(Criminal) 295 : (2003) 95 RD 114

Hon'ble Judges: B.K. Rathi, J

Bench: Single Bench

Advocate: Ashwini Kumar Awasthi and Manish Tiwary, for the Appellant; S.K. Singh and Govt. Advocate, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

B.K. Rathi, J.

The petitioner is an accused in Crime No. Nil of 1999 u/s 9/56 F.E.R.A. He has been summoned for interrogation. The allegation of the petitioner is that he has been falsely implicated in this case. The only request made is that direction may be issued for interrogation of the petitioner in presence of his lawyer.

2. I have heard Sri Manish Tiwary, learned counsel for the petitioner and Sri S.K. Singh, learned counsel for Union of India. The request has been opposed by Sri S.K. Singh on the ground that it cannot be accepted in view of the decision of the Hon'ble Supreme Court in Poolpandi Vs. Superintendent, Central Excise and others etc. etc., it was held that for interrogation during investigation under the Customs Act and F.E.R. Act, the refusal of the presence of the counsel is not violative of Article 20(3) of the Constitution of India.

3. As against this, the learned counsel for the petitioner has filed the copies of the unreported judgments of this Court. The first is that Criminal Misc. Application No. 2221 of 1999 decided by Hon"ble P.K.Jain on 24-5-1999. The other decision referred to is Criminal Misc. Writ Petition No. 447 of 1990 decided by Hon"ble G.S.N. Tripathi dated 26-3-1998. Both these cases were under the Customs Act. Similar requests of the petitioner were allowed. However, the perusal of the judgments show that no law was discussed and only it was considered that there is no reason as to why the interrogation may not be permitted before the counsel. The third case relied on is the decision of Hon"ble O.P. Garg, J. in Criminal Misc. Application No. 1620 of 1999 decided on 4-6-99 (reported in 1999 All LJ 1922). In a detailed judgment the case of Poolpandi Vs. Superintendent, Central Excise and others etc. etc., was considered and was distinguished on the basis of the decision of the Hon"ble Supreme Court in the case of K.T. Advani, v. The State, 1985 Cri.L.J. 1325. "I have carefully gone through the judgment and found that the decision of the case of K.T. Advani v. The State, is based on the decision of the case of Nandini Satpathy Vs. P.L. Dani and Another, ", decided by the Hon"ble Supreme Court. This case of Smt. Nandini Satpathy was considered by the Apex Court in the case of Poolpandi Vs. Superintendent, Central Excise and others etc. etc., and has drawn an adverse inference. Therefore, the decision of Apex Court in the case of Poolpandi is binding and I accordingly find that the permission cannot be granted to the petitioner for interrogation in presence of the counsel.

4. The petition is accordingly dismissed.