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State Vs Chogalal Narayan

None

Court: Madhya Pradesh High Court (Indore Bench)

Date of Decision: Oct. 31, 1949

Acts Referred:
Explosive Substances Act, 1908 â€" Section 5

Citation: AIR 1951 MP 112 : (1951) CriLJ 637

Hon'ble Judges: V.M. Mehta, J; V.K. Sanghi, J

Bench: Division Bench

Judgement

Sanghi, J.
The resp. keeps a hotel in Gwaltoli indore. On 20.2.1945. the police searched his house in the coarse of the investigation of a

theft. From an iron safe forty-three revolver cartridges were recovered; of these, it is alleged, twenty-four were old. What it meant by old

cartridges has not bean explained. The respondent was prosecuted u/s 5, Indore Explosive Substances Act for being in possession of explosive

substances without an explanation that he had them for a lawful object. The learned Dist. Mag. Indore City convicted him under that section &

sentenced him to four months" rigorous imprisonment & a fine of Rs. 100. On appeal the learned Ses. J. acquitted him on the ground that the

explanation rendered by him was a good one. The explanation given by the resp. was that he found these cartridges left by some one in the hotel.

He kept them carefully to be returned to the owner. His brother in law Pannalal lives at Ujjain & he holds license for possessing a revolver. He had

come to pay him a condolence visit & he believed that the cartridges were left behind by him. This was about the 20th of February. This

explanation is not in one place but it is reached by putting the statement of the resp in the Ct & Pannalal"s evidence together. That he gave this

explanation to the police is borne out by the fact that the police went to Ujjain & interrogated Pannalal. If the honest intention of the resp. was to

return these to Pannalal whom he believed to have left them behind the object to the possession was a lawful one Pannalal has stated that

cartridges were not his. The question is not whether Pannalal did actually leave the cartridges in the hotel & believed that they might have be longed

to Pannalal. This fact cannot be expected to be proved. There can only be his word for it. A Ct may act on the explanation of an accused if it

believes it to be reasonbly true, see AIR 1933 P.C. 280 (sic) Narayana v. Emperor 56 Mad 231 at p.241: (A.I.R. 1933 Mad 233: 34 Cri. L.J.

481). The learned Ses. J. has believed the explanation of the resp. to be true. I cannot say that the explanation is not a reasonable one, Under the

circumstances it would be improper to interfere with the judgment of acquittal by the learned Sess. J. The appeal is dismissed.

2. Mehta, J.-I agree.