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JAGBIR WALIA
v.
DELHI ADMINISTRATION

NOVEMBER 26, 1997

B

[G.T. NANAVATI AND B.N. KIRPAL, JJ.]

Suppression of Immoral Traffic Act, 1956—Section 9—Investigation—FIR recorded on the basis of material collected and verified by Assistant Commissioner of Police—Held, the investigation was not contrary to the provisions of the Act.

C

Practice and Procedure—Appeal—Permission to place additional evidence on record—Grant/Rejection of.

D

The appellant, an accused convicted for the offence punishable under Section 9 of the Suppression of Immoral Traffic Act, 1956, having unsuccessfully challenged his conviction before the Sessions Court and the High Court, preferred the present appeal.

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On behalf of the appellant, it was contended that the whole investigation was illegal as the investigation was done by a Sub-inspector of Police and not by the Assistant Commissioner of Police appointed for that purpose. The appellant also sought to place certain new material on record in furtherance of his contention.

F

Dismissing the appeal, this Court

G

HELD : 1. It cannot be said that the investigation made in this case was contrary to the provisions of the Suppression of Immoral Traffic Act. The Sub-Inspector of Police after recording statement of the complainant called the Assistant Commissioner of Police at the place of the incident. The Assistant Commissioner after reaching there recorded statements of other witnesses and also verified the statement of the complainant. It was on the basis of the material thus collected and verified by the Assistant Commissioner of Police that the FIR was recorded and further investigation was carried on. [467-F]

H

2. It will not be proper to condemn the prosecution witnesses by now

taking additional evidence, in respect of which they did not have any opportunity to controvert. Besides, the copies of the material sought to be produced are not even certified copies. [463-A-B] A

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 243 of 1988. B

From the Judgment and Order dated 24.10.86 of the Delhi High Court in Crl.R.No.223 of 1986.

P.P.Malhotra, B.B.Sawheny, Vineet Malhotra, Shailendra Sharma and Ms. Sandhya Goswami for the Appellant. C

K.C. Kaushik for D.S.Mehra for the Respondent.

The Judgment of the Court was delivered by

NANAVATI, J. The appellant has been convicted for the offence punishable under Section 9 of the Suppression of Immoral Traffic Act. He challenged his conviction by filing an appeal before the Sessions Court, which was dismissed. He then preferred an appeal to the High Court, which was also dismissed. D

In this case, initially, this Court had issued notice only with respect to ground No.7 raised in the Special Leave Petition. Therein the point that was raised by the appellant was that, in this case, the investigation was done by a Sub-Inspector of Police and not by an Assistant Commissioner of Police appointed for that purpose and, therefore, the whole investigation was illegal and on the basis of the material collected during such illegal investigation, the appellant could not have been convicted. Apart from the fact that the contention is not sound in law, it is factually also incorrect. The Sub-Inspector of Police after recording statement of the complainant called the Assistant Commissioner of Police at the place of the incident. The Assistant Commissioner after reaching there recorded statements of other witnesses and also verified the statement of the complainant. It was on the basis of the material thus collected and verified by the Assistant Commissioner of Police that the FIR was recorded and further investigation was carried on. Therefore, it cannot be said that the investigation made in this case was contrary to the provisions of the Act. This appeal really deserves to be dismissed on that ground alone. E F G

The appellant has also filed an application to enlarge the scope of the H

A appeal and to permit the appellant to place on record material in the shape of various FIRs and other police records to show that the complainant and the investigating officer are not creditworthy witnesses. In the application, the appellant had only referred to such material and later on, he produced copies of such material. They are not certified copies and, therefore, we have not taken any notice of them. Moreover, it will not be proper to condemn the prosecution witnesses by now taking additional evidence, in respect of which they did not have any opportunity to controvert. We, therefore, reject that application.

C This appeal is, therefore, dismissed. The appellant is directed to surrender to custody immediately to serve out the remaining part of his sentence.

M.P.

Appeal dismissed.