
(1972) 11 GUJ CK 0004
In the Gujarat High Court

Chimanlal Bhogilal Shah

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 21-11-1972

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 207A, 207A(3)

Citation : (1973) 14 GLR 807

Hon'ble Judges : A.A. Dave, J

Bench : Single Bench

Judgement

A.A. Dave, J.—This Revision Application is directed against the order of the City Magistrate, 5th Court, Ahmedabad, rejecting the application given by the present petitioner for supply of copies of relevant documents mentioned therein.

2. An application was submitted by Ramniklal Pragjibhai, who was the original accused No. 1 on 1-5-1972 with a request that copies of the statement of reasons given by the Hand-writing expert and other relevant documents, be supplied to him. The learned City Magistrate rejected the application on the ground that his was an inquiring Court and that Court had only to commit the case. The relevant observations are as under:

This is the inquiring Court. This Court has only to commit the case. If the documents asked for are not supplied to the accused they must make a grievance at the Trial Court. This Court will not decide about the relevancy of the documents at this stage. The accused may move the Trial Court after the committal of this case.

Being aggrieved with the said order of the City Magistrate the present Revision Application has been preferred.

3. Mr. A. D. Shah, the learned advocate for the petitioner urged that in the instant case the learned Magistrate was clearly in error in refusing to supply atleast the copy of the reasons of the opinion of the Hand-writing expert. He urged that an opinion of an expert has no value, unless it is supported by

reasons. Therefore unless a copy of the reasons is supplied to the accused, the accused would not be in a position to controvert the opinion given by the Hand-writing expert. Mr. Shah submitted that in the interests of justice it was essential that a copy of the reasons of the hand-writing expert for arriving at a particular opinion be supplied to the accused. He also submitted that in order that the accused may come to know about the particulars of the documents relied upon by the Hand-writing expert, it would be necessary for him to have a copy of the forwarding letter sent by the police to the Hand-writing expert showing the particulars of the documents enclosed therewith. He therefore also prayed that a copy of the forwarding letter of the police sent to the hand-writing expert be supplied.

4. In my opinion, the submissions made by Mr. Shah have great substance. It seems that the learned City Magistrate has not paid proper attention to Sub-clause (3) of Section 207-A of the Criminal Procedure Code. It says:

At the commencement of the inquiry the Magistrate shall, when the accused appears or is brought before him, satisfy himself that the documents referred to in Section 173 have been furnished to the accused and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be so furnished.

Thus, it is obligatory on the learned Magistrate in the inquiry before him to see that the copies of all the documents mentioned in Section 173 are supplied to the accused before the inquiry begins. The learned Magistrate, therefore, is not right in stating that his was an inquiring Court and he has merely to commit the case. The learned Magistrate should remember that a committing Court is not a mere post office and it is the right of the prosecution to examine the witnesses and it would be open to the accused to cross-examine them. It would be even open to the accused to urge from the perusal of the documents that it is not a fit case to be committed to the Sessions Court. Unless, therefore, the copies of the documents which are going to be relied upon by the prosecution, are supplied to the accused, he would not be in a position to urge before the Court whether it is a fit case to be committed before the Sessions Court or not. In the instant case, the prosecution relies on the opinion of the Handwriting expert. In fact, the whole case apparently hinges on the opinion of the Handwriting expert. The accused therefore is entitled to know in advance the reasons of the Hand-writing expert for giving such an opinion. If the accused is not supplied with the copy of the reasons, he would not be in a position to confront the Handwriting expert properly at the time of the trial. Similarly, it would be necessary for the accused to know as to which documents were relied upon by the Hand-writing expert for arriving at such opinion. The accused, is therefore right in praying that a copy of the forwarding letter sent by the police to the Hand-writing expert mentioning all the particulars of the documents enclosed therewith and the copy of the reasons of the Hand-writing expert for the said opinion be supplied to him. The learned Magistrate, therefore, was not right in refusing the request of the accused. In

fact, as observed earlier, it is the duty of the Committing Court to see that copies of all such documents are supplied to the accused before the inquiry begins.

5. In the result the Revision Application succeeds.

6. The Revision Application is allowed. The order passed by the learned City Magistrate, 5th Court, Ahmedabad, rejecting the application is hereby set aside and he is directed to ask the prosecution to supply a copy of the reasons given by the Hand-writing expert in support of his opinion and also a copy of the forwarding letter sent by the police to the Hand-writing expert mentioning therein the particulars of the documents sent to the Handwriting expert.