

(1932) 07 MAD CK 0006
In the Madras High Court

Kovuru Subbayya and Others

APPELLANT

Vs

Peta Veeraya

RESPONDENT

Date of Decision : 25-07-1932

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 162

Citation : (1933) ILR (Mad) 154 : (1932) 36 LW 759 : (1932) 63 MLJ 794

Hon'ble Judges : Jackson, J

Bench : Division Bench

Judgement

Jackson, J.—The point raised in this revision case is whether on behalf of the accused in an assault case the complainant can be cross-

examined by confronting him with a statement which the complainant made to the police when " they were investigating a theft case, a case

different from the case of assault. (This case of assault was not under investigation by the police.)

2. A statement made to the police is as good evidence as a statement made to any other person save for certain exceptions to be found in the

Evidence Act and in the Code of Criminal Procedure.

3. In Section 162, Criminal Procedure Code, it is laid down that a statement made to the police in the course of an investigation of an offence

cannot be used as evidence at any trial in respect of that offence, with the proviso that such a statement may be used by the accused to contradict

a prosecution witness.

4. But when the statement has not been made in the course of investigating the offence in respect of which the trial is held neither the main part of

Section 162 nor the proviso has any application.

5. If in an investigation of theft A says to the police that B and C beat him, that statement can be proved when D and E are being tried for assault,

the trial in no way being in respect of the investigated theft. Though of course if in any way the assault had been under investigation by the police

the statutory bar would apply.

6. The Magistrate did wrong therefore to shut out this evidence. His mistake is apparently reading Section 162 as ""disallowing all statements to

police officers,"" as though there were a full stop after ""for any purpose"". But these words are clearly qualified by (for any purpose) ""at any trial in

respect of any offence under investigation at the time when such statement was made"".

7. If it is sought to use the statement at a trial in respect of some offence which was not being investigated when the statement was made, there is

no statutory bar whatsoever to its use. And of course the proviso only applies to such trials in which there is a statutory bar.

8. The petition must be allowed and the Magistrate is ordered to proceed as directed herein.