
(2010) 04 MP CK 0021
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 10254 of 2008

Mohd. Aslam and Another

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 30-04-2010

Acts Referred:

Citation : (2010) ILR (MP) 2428

Hon'ble Judges : S.C. Sinho, J;Rakesh Saxena, J

Bench : Division Bench

Advocate : Rajendra Kumar Gupta, for the Appellant; Rajeev Mishra, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Saxena, J.—Applicants have filed this petition u/s 482 of the Code of Criminal Procedure challenging the order dated 24.9.2008 passed by Special Judge for CBI cases, Bhopal in Special Case No. 11/2008 dismissing the application filed by them u/s 265 of the Code of Criminal Procedure requesting that prosecution be directed to furnish Hindi translation of the documents filed by it in English along with the charge sheet filed against them.

2. CBI, ACB, Bhopal filed the charge sheet against the applicants under Sections 120-B, 420, 467, 468, 471 of the Indian Penal Code and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. This charge sheet was in English language. First Information Report, statements of witnesses and most of the documents filed along with the charge sheet were in English. Applicants filed application u/s 265 Code of Criminal Procedure stating that they did not have adequate knowledge of English language, therefore, they were incapable to defend themselves because the documents filed along with the charge sheet against them were in English language. According to them, their language was Hindi and since official language of the Court was also Hindi, they were entitled to have Hindi translation of the documents filed by the prosecution in the case, therefore, they prayed that prosecution be directed to supply the Hindi

translation of the documents which were in English language.

3. It is apposite to quote Section 265(1) of the Code of Criminal Procedure which reads as under:

265. Language of record and judgment.- (1) Every such record and judgment shall be written in the language of the Court.

4. Since Section 265 of the Code of Criminal Procedure is limited to the provisions comprised in Chapter XXI-Summary Trials u/s 260 of the Code of Criminal Procedure, the provisions of Section 265 are not applicable to cases triable as warrant-cases and sessions trials. The case in hand was triable as warrant-case by Special Judge C.B.I.

5. In respect of language of record and the evidence pertaining to warrant-cases and the trials before Court of Sessions, Section 277 of the Code of Criminal Procedure provides:

277. Language of record of evidence.- In every case where evidence is taken down u/s 275 or Section 276,

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(b) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or presiding Judge, and shall form part of the record;

(c) where under Clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or presiding Judge, and shall form part of the record:

Provided that when under Clause (b) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

6. From bare perusal of above provision, it is apparent that it requires the Court to record evidence in the language of the witness and if the witness gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared. It has been further provided that if the evidence is taken down in English and the translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

7. As far as the language and contents of judgment are concerned, Section 354 of the Code of Criminal Procedure provides:

354. Language and contents of judgment. (1) Except as otherwise expressly provided by this Code, every judgment referred to in Section 353,

(a) shall be written in the language of the Court;

8. From the above statutory provisions, it is borne out that recording of the evidence may be in any other language, but in case it is other than the language of the Court, a true translation shall be prepared and further that the judgment to be pronounced in every trial in any Court of original jurisdiction u/s 353 of the Code of Criminal Procedure shall be written in the language of the Court except expressly provided by the Code itself.

9. The aforesaid referred provisions do not restrict or caste an obligation on any of the parties before the Court to submit the documents or the charge sheet only in the language of the Court.

10. Learned Counsel for the applicants submitted that the official language for the official purposes of the State of Madhya Pradesh is Hindi, therefore, prosecution deserved to be directed to supply Hindi translation of the documents submitted by it in English. Section 3(1) of the Madhya Pradesh Official Language Act, 1957 (for brevity referred to as M.P. Act) is reproduced hereunder:

3. Official Language for Official purposes of the State.- [1] Subject as hereinafter provided, Hindi shall be the official language of the State for all purposes except such purposes as are specifically excluded by the Constitution and in respect of such matters as may be specified by Government from time to time by notification.

11. Learned Counsel for the applicants drew our attention to the notification issued by the State Government under the provisions of Section 137 of the CPC which runs as follows:

Notfn. No. 45940-F.N. 7(a)-5-76-B-XXI. Dated 22.11.1976, Pub. in M.P. Rajpatra (Ext.). d.23.11.1976, p.3323]- In exercise of the powers conferred by Sub-section (2) of Section 137 of the Code of Civil Procedure, 1908 (No. v. of 1908), the State Government hereby declares that with effect from the 26th January, 1977

(i) The Hindi in Deonagri script shall be the language of the all courts subordinate to the High Court of Madhya Pradesh; and

(ii) The applications to and proceedings in such courts shall be written in the Deonagari script.

12. It is true that as provided by Section 3 of M.P. Act, the official language of the State for all purposes except such purposes as specifically excluded by the Constitution and as specified by the Government by notification shall be "Hindi", but it does not debar the prosecution to file the charge sheet in English. As far as the notification quoted hereinabove is concerned, it pertains to the provisions of the CPC and Civil Courts.

13. All the provisions under the Code of Criminal Procedure relate to the record of proceedings and the judgment of the Criminal Court other than High Court and Supreme Court. In Section 364 Code of Criminal Procedure, it has been provided that if the original judgment is recorded in a language different from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

14. Learned Counsel for the applicants placing reliance on *Dr. Shiv Roop Sharma v. R.K. Shrivastava* AIR 1992 MP 256, urged that the prime concern and the duty of the Court is the dispensation of justice and the language should not come in the way of dispensation of justice. In *Dr. Shiv Roop Sharma (supra)*, it was observed that while it is true that the person seeking justice cannot be driven out of the Court on account of language, it is also equally true that an advocate, as an officer of the Court, is equally expected to honour the official language of the Court. Direction by Magistrate, accepting an application in English and in future to make applications before it in Hindi could not be said to contravene Article 345 and that the direction of the Magistrate was well supported by Section 3 of M.P. Act. In our opinion, the question and the occasion in the above case was different. In that case, Judicial Magistrate directed the Petitioner, a practicing advocate appearing for the accused in the criminal case, to make further applications in Hindi. Learned Magistrate had entertained the application filed in English but asked the learned Counsel to make applications in future in Hindi. It was observed in para 6:

6. Article 345 of the Constitution empowers the State Legislature, to adopt Hindi as the official language of the State, accordingly it has been adopted in the State by passing the aforesaid Act. The Govt. of Madhya Pradesh by Notification No. 45950-Fa. No. 7(A)-5-76-B-21, dt. 22-11-76 published in Gazette (Extraordinary) on 23-11-1976 and 28-3-1974 has notified that Hindi shall be the language of all subordinate Courts in the State. The High Court of Madhya Pradesh by its memo, dt. 20-1-77 has directed all its subordinate Courts, through its District and Sessions Judges, to use and enforce Hindi, in all its civil and criminal proceedings. Section 272 of the Code of Criminal Procedure. empowers the State Govt. to determine what shall be for the purposes of Code, the language of each Court within the State other than the High Court. The notifications referred to above, clearly show the determination of the State Government that Hindi shall be the language of all Courts in the State except High Court.

15. This gives some indication that parties before the Court are expected to honour the official language of the Court, however, filing of the charge sheet containing documents and statements recorded in English language, in our view, cannot be held to be illegal or otherwise prohibited.

16. It is true that an accused person would be in much better position to defend his case, if he would himself be able to go through the material collected in the charge sheet against him, but, since applicants in this case are represented by

the counsel who is well versed in English, which is apparent from the fact that they filed their vakalatnama in English, it cannot be held that they would be prejudiced by filing of the charge sheet in English.

17. Taking into consideration all the above circumstances, we are of the opinion that the trial Court committed no error in rejecting the application filed by the applicants for supply of Hindi translation of the documents filed with the charge sheet in English.

18. Petition is, accordingly, dismissed.