
(1951) 11 GAU CK 0006
In the Gauhati High Court

Ngangam Mahendra Singh and Others

APPELLANT

Vs

Manipur State

RESPONDENT

Date of Decision : 19-11-1951

Acts Referred:

Evidence Act, 1872 — Section 10, 47

Penal Code, 1860 (IPC) — Section 121A, 122, 123

Citation : (1952) CriLJ 1518

Hon'ble Judges : Lakshmi Narain, J.C.

Bench : Single Bench

Judgement

Lakshmi Narain, J.C.

1. The sixteen convicts named above have appealed against their conviction, and sentence passed on 21.9.51 by the District Magistrate, Manipur, under Sections 121A, 122, 123 I. P. C. and so also u/s 19(F) of the Arms Act against some of them namely, Ibohal Singh, Tikendra Singh, Amuyaima Singh, Gokul Singh, Lobi Singh and Chourjit Singh. The details of sentences passed against each of them are as follows Mahendra Singh, Boro Singh, Ibohal Singh, Benoy Singh 7 years" R.I. each under Sections 121A, 122, 123 I.P.C. The sentences under Sections 122, 123 I.P.C. to run concurrently. Ibohal Singh is sentenced to 3 years" R.I. also u/s 19(F) of the Arms Act which is to run concurrently with his other sentences. All the above said accused are then to serve term of 14 years, Tebanda Singh has been sentenced to 7 years" R.I, under each of Sections 121A, 122, 123 I.P.C. which are to run concurrently and also 3 years" R.I. u/s 19(F) of the Arms Act which is to run after the expiry of the other sentences. Thus he is to undergo 10 years" R.I.

2. Tikendra Singh is sentenced to 7 years" R.I. under Sections 121A, 122 and 123 I.P.C., all of them are to run concurrently. Rabei Singh, Amuyaima Singh, Apabi Singh, Non-gayai Singh and Gokul Singh to undergo 5 years" R. I. each under each of the Sections 121A, 122, and 123 I.P.C. All the sentences to run concurrently. Out of them, Amuyaima Singh and Gokul Singh are also sentenced

to 3 years" R.I. u/s 19(F) of the Arms Act, all the sentences are to run concurrently.

3. Boramanj Singh, Lobi Singh, Ajit Singh and Samungou Sarma are sentenced to 3 years" R.I. under each of the Sections 121A, 122, 123 I.P.C. ?all the sentences to run concurrently. Lobi Singh is also sentenced to 3 years" R.I. u/s 19(F) of the Arms Act which is to run concurrently.

4. Chourjit Singh is sentenced to 3 years" R.I. u/s 19(F) of the Arms Act.

5. In awarding punishment the learned District Magistrate has kept in view two principles viz.:

(i) That the ring-leaders in this conspiracy, - the General and Colonels, as it were of the Army - should receive heavier punishment than the privates and camp followers and

(ii) so far as is consistent with the above, the more youthful offenders should be more lightly dealt with than those who are older, e.g., the 18 years old Lobi Singh should be less heavily punished than the 28 years old army pensioner Amuyaima Singh, though their offences and evidence against them are practically the same.

6. It may be stated that Criminal Procedure Code is not in force in this State (Manipur). The Government of India when approached also intimated that since the Code was not in force, sanction for prosecution in this case was not required. Failure to comply with the provisions of the Code, therefore does not invalidate the trial. And since Order No. J/12/51/34 dated 28.5.51 of the Chief Commissioner empowers the District Magistrate to pass any sentence authorised by law except a sentence of. death or of transportation for a term exceeding 10 years or imprisonment for a term exceeding 10 years, the case has been tried by him.

7. Briefly, the history of the case is as follows : On the scrutiny of papers seized from several persons, the C.I.D. Inspector P.W. 1 found that there was a conspiracy amongst all the appellants with many others (who have not yet been apprehended) to overthrow the present Government by criminal force and in pursuance of that aim they collected arms, ammunition and men and concealed their design to do so. The witness filed a complaint Ex. PB with the Special Magistrate. First Class, on 24.5.51 on which the case was registered. It runs as follows:

I have the honour to state that the accused-persons named below are members of a party called "Communist Party of Manipur" and the aims and objects of the said accused-persons were to overthrow the present Government by violent means and for that purpose and in pursuance of their aims and. objects, all the accused entered into a conspiracy to overawe by means of criminal force or show of criminal force the Government established by law. They raised funds, collected men, arms and ammunition with intent to wage war against the Government of

India. On or about 9.3.50 they formed an army which they called "Red Guard Army" and regular military training was given to this army with arms and ammunition and other weapons.

In March 1950 a hidden camp was discovered at Nungshigum Hill where the party members were given training in the use of arms and guerilla warfare.

During this period, some police officers and some police helpers were kidnapped. Some loyal citizens who were helping the Police were killed and some were severely assaulted. The object being to conceal their secret design.

On 7.5.50 Ngangom Mahendra Singh of Nagamapal and Thokchom Boro Singh of Keisampat were arrested and a revolver, some ammunition and some documents, cyclostyle machine and type-writer were found in their possession.

During the time of arrest of Ningthoujam Binoy Singh of Nagamapal, Langoljam Tikendra Singh of Khundrakpam, Chingakham Tebanda Singh of Andro and Moirangthem Ibohal Singh of Top several documents were-recovered from their possession.

These documents consisted of several letters written by the members of the organisation, circulars that were issued for the conduct of the organisation, instructions that were given to the members, leaflets that were circulated for propaganda etc. They formed District Organisation Committee (D.O.C.) which was the executive body of the party to run the organisation. They spread up their organisation in different branches under different names such as. Student's Federation, Youth League, Mahila Samity, Peace Committee etc. They also attempted to contact the Communist Party of Burma for a joint effort.

All the accused persons have committed an offence under Sections 121A, 122 and 123 I.P.C. and the accused No. 7, 22, 23, 24, 36 and 42 have in addition committed further offence u/s 19(f)/20 of the Indian Arms Act for which sanction for prosecution has been accorded by the District Magistrate and the said sanction is filed herewith.

The list of the witnesses and the list of the exhibits are appended herewith.

The list of the accused persons contains the names of 44 persons including the present appellants. There are 29 witnesses in the other list. The list of exhibits is a fairly long one consisting of 295 documents found with the accused Ningthoujam Benoy Singh of Nagamapal, 27 documents found with L. Tikendra Singh accused, and 46 including one file containing; about 99 letters and other relevant papers and a note book with some notes and songs, were seized from the possession of the accused M. Ibohal Singh of Top. The above complaint is also annexed with the details of arms, ammunition and other relevant articles which were seized from the house of Tebanda Singh, from the possession of Mahendra Singh, Boro Singh, Amuyaima Singh and Lobi Singh, Six dummy guns with some scraps of paper were also found in the camp of Mungshigum hill.

8. To prove its case the prosecution has produced 25 witnesses in all which consist mostly of police officials who conducted the raids and searches and also those who had been kidnapped by the accused party, injured and thrown away as dead. Besides the above evidence, there are incriminating documents seized from different accused connecting them with conspiracy to overthrow the Government by criminal force. Four out of the above appellants have also made confessional statements before Magistrates, in consequence of which arms, ammunition and documents were recovered from the accused which resulted in their arrest. All the accused have denied the charge made against them. They have pleaded not guilty and have produced no defence. The confessing accused have also retracted their confession at the stage when their examination was recorded by the trial Court after recording the evidence of 24 prosecution witnesses. (After setting out the evidence relating to the alleged conspiracy the Judgment proceeded:)

9-31. I have also to mention here that handwriting of different accused has been identified and proved by some of the prosecution witnesses who have been acquainted with it. This is relevant u/s 47 of the Evidence Act, although these witnesses happen to be policemen, but that alone is no ground to cast aside their evidence. It was open to the accused to rebut this evidence which they never attempted. The learned Magistrate has ably summarised in his judgment most of the documentary evidence in this case which form a coherent and consistent whole.

32. In case of conspiracy, it is always difficult to secure outside and independent evidence. It is to be proved by circumstances. All the above documents discussed above are relevant u/s 10 of the Evidence Act, both to prove the existence of conspiracy and to prove the conspiracy of the different accused in it. Code names (Tek names) is also a substantial evidence of conspiracy. Conspiracy can be proved by conduct of the accused. When a letter is found with a conspirator accused and its writer and addressee are known, it is admissible against the conspirators. Conspiracy can also be inferred from beliefs, associations, activities of the accused and even from statements they made in Court. Statements, acts or declaration of each conspirator in reference to their common intention are admissible as evidence against others. Evidence of conspiracy makes statements of a conspirator evidence against co-conspirators.

When several wrong-doers conspire to effect an unlawful purpose the act done by any one in furtherance of their common purpose is considered to be acts of all. *R. v. Watson & R. v. Hardy*.

The possession of a document creates an inference that the possessor was aware of its contents. To establish conspiracy the agreement may be inferred from circumstances raising a presumption of common concerted plan to carry out the unlawful design.

33. Let the case of each appellant be now considered individually:

The remaining portion of the judgment is not being reported as it merely deals with evidence.