

(1955) 09 BOM CK 0093

In the Bombay High Court

Case No : Criminal Revision Application No. 1023 of 1955

Tatuba Laxman

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 30-09-1955

Acts Referred:

Bombay Police Act, 1951 — Section 124
Evidence Act, 1872 — Section 114

Citation : AIR 1956 Bom 475 : (1956) CriLJ 874

Hon'ble Judges : Shah, J

Bench : Single Bench

Advocate : V.H. Kamat, for the Appellant; Government Pleader, for the Respondent

Judgement

Shah, J.—The accused Tatuba Laxman was charged with having committed an offence u/s 124, Bombay Police Act, 1951, in criminal case No. 106/P of 1955 in the Court of the Presidency Magistrate, Fifth Court, Dadar, Bombay. The learned trial Magistrate convicted the accused and sentenced him to pay a fine of Rs. 10/- and in default of payment of fine to suffer simple imprisonment for five days. It was the case for the prosecution that on 23-10-1954 at about 12 noon the accused was found going in a suspicious manner along Elphinstone Road.

The accused was stopped by the Police Naik No. 2606/F and was searched, and "a tap and another piece" were found on the person of the accused. The accused took the police to an open place near the Dhan Mill compound and pointed out the place where he alleged he had found the articles. The police did not accept the explanation of the accused and, charge-sheeted him with having committed an offence under S. 124, Bombay Police Act, 1951.

2. Now the tap found on the person of the accused was a common article, and there was no evidence to show that it was stolen properly. It is true that the tap was in working condition, but the mere fact that it was in working condition would not justify an inference that it may not have been thrown away or lost. In

my view the conviction of the accused cannot be sustained. The accused is therefore directed to be acquitted. Fine, if paid, be refunded. Revision allowed.