

## REVISIONAL CRIMINAL.

1931  
March, 17.

Before Mr. Justice Young.

EMPEROR *v.* LADLI PRASAD ZUTSHI.\*

*Criminal Procedure Code, sections 548, 554—Copies of judgments of criminal courts—Right of the public to obtain copies—Evidence Act (I of 1872), sections 74, 76—Public documents—General Rules (Criminal) for subordinate courts, chapter XIV, rules 4 and 6—High Court Rules, chapter VIII, rule 6.*

*Held*, on a consideration of general principles and of the existing statutes and of the rules prescribed by the High Court, that any member of the public has a right to obtain a copy of a judgment of any criminal court.

The proceedings in, and especially the judgments of, His Majesty's courts ought to be accessible to the public, and it is of the essence of the administration of justice that judgments affecting the rights, and more particularly the liberties, of the people should be made as public as possible.

A judgment of a court being a public document, by the provisions of section 76 of the Evidence Act any person who has a right to inspect it has also a right to obtain a copy. The right of inspection is regulated by rules framed by the High Court, under the powers given by section 554 of the Criminal Procedure Code, for the inspection of records of subordinate criminal courts and by the rules framed for the High Court itself. A proper construction of these rules, namely rules 4 and 6 of chapter XIV of the General Rules (Criminal) for subordinate courts and rule 6 of chapter VIII of the High Court Rules, establishes a right for the general public to inspect, and therefore, to have copies of the judgments of the subordinate criminal courts. The only valid reason for refusing such an inspection would be that the inspection of the particular record was against the public interest, and even here it was not easy to think of a case where the inspection of a judgment, which must be delivered in open court, would be against the public interest.

The words, "any person affected by a judgment or order" in section 548 of the Criminal Procedure Code should not be construed narrowly; they cannot be confined to a person who

\*Criminal Reference No. 877 of 1930.

is a party to the judgment or order, for the rights of the accused to a copy of the judgment are dealt with elsewhere in the Code. The public as a whole cannot fail to be affected by every judgment of a criminal court. For example, as in the present case, the judgment in a criminal case dealing with sedition affects the general public. It is a rule of law that every member of the public is presumed to know the law; it follows that the public must have a right of access to the judgments of the courts which express that law.

Dr. K. N. Katju and Mr. Gopi Nath Kunzru, for the applicant.

The Assistant Government Advocate (Dr. M. Wali-ullah), for the Crown.

YOUNG, J. :—This is a reference by the Sessions Judge of Allahabad to the High Court for orders.

In October last Pandit Jawahir Lal Nehru was tried in the court of the District Magistrate of Allahabad on a criminal charge and was convicted by him. An application was thereafter made by counsel on behalf of Pandit Moti Lal Nehru, the father of the convicted person, for a copy of the judgment delivered by the learned District Magistrate. By his order of the 7th November, 1930, the learned District Magistrate refused the application on the ground that the applicant was not a party to the case, or acting on behalf of a party to the case. An application was made in revision to the Sessions Court asking that a reference should be made to the High Court with regard to the legality of the said order. The learned Sessions Judge allowed the application and submitted the matter to the High Court for orders.

As a matter of principle, I am of opinion that the proceedings in, and especially the judgments of, His Majesty's courts ought to be accessible to the public, and unless by any statutory provision or by the rulings of any court I am bound to the contrary, I would hold that it is of the essence of the administration of justice that judgments affecting the rights, and more particularly the liberties, of the people should be made as public as possible

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in order that the public at large might at leisure consider these judgments, either in their own interests or in the interests in a criminal cause, of the condemned person; for it is only by such publicity that the public can be satisfied that the law is being properly administered by those responsible for its administration, and that abuses in that administration, which might occur if the fullest publicity was not given to the proceedings in a court, may be avoided.

The question to be decided in this reference is the right of any member of the public to obtain a copy of a judgment of any criminal court, and the learned Magistrate himself in his explanation has asked for the guidance of the High Court in this matter. Section 76 of the Indian Evidence Act enacts that "every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy." A public document is defined in section 74 of the same Act and includes a "document forming the acts or record of the acts of a public officer, legislative, judicial and executive, whether of British India, or of any other part of His Majesty's dominions, or of a foreign country." It is clear, therefore, that a judgment of a court is a public document within the meaning of section 74. The right of a member of the public to demand a copy of such a document is limited by section 76 to "a person who has a right to inspect" the document. The right of a person to inspect a judgment, therefore, must be looked for outside the Evidence Act. Section 554 of the Criminal Procedure Code enacts that the High Court may make rules for the inspection of the records of subordinate courts. This presupposes that, subject to such rules, the public has a right to inspect the records of subordinate courts. This High Court has accordingly made such rules. Chapter XIV of the General Rules (Criminal) sets out these rules.

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Rule 4 of chapter XIV is as follows : "For any inspection, other than one made under rule 2, of a record in a Magistrate's court or record room a verbal application may be made on any court day within the first four working hours to the court or the officer in charge of the record room. If such officer rejects such application, he shall record his order and the *reasons therefor*." It is clear, then, that the rejection of the application must not be made arbitrarily. Rule 6 has recently been added, and provides that "any person desiring to ascertain the serial number and date of institution of any case or other registered particulars respecting a case or any proceedings therein, or of any judicial proceedings . . . shall . . . be entitled to have search made and the information, if obtainable, given to him in writing." This rule would seem to infer the right of the applicant to inspect the record when found. In my opinion, the only valid reason for refusing such an inspection would be that the inspection of the particular record was against public interest, and even here it is not easy to think of a case where the inspection of a judgment, which must be delivered in open court, would be against public interest. In construing the High Court rules with regard to subordinate courts, it is material to consider the rules drawn up for the High Court itself. By the High Court rules, chapter VIII, rule 6, it is laid down that after judgment even a stranger to the case may obtain either in a civil or criminal matter a copy of the judgment or record on payment of the prescribed fee. It would be a peculiar situation if the High Court meant to allow, except for the reason given above, an officer of an inferior court to refuse inspection of, and therefore a copy of, the judgment of that inferior court, when on appeal to the High Court that very judgment itself would be available to any member of the public after the judgment in the High Court had been delivered. It is inconceivable that the High Court would allow a right to a subordinate court to refuse inspection of and a copy of a judgment, when by

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its own act the High Court does not preserve that right for itself. I am, therefore, satisfied that a proper construction of the rules for the subordinate courts made by the High Court establishes a right for the general public to inspect and have copies of the judgments of the subordinate courts.

On this question the Code of Criminal Procedure itself in section 548 gives an absolute right to any member of the public "affected by a judgment or order passed by a criminal court" to have a copy of that judgment or any part of the record on payment. As regards this particular case, it would be difficult to argue that the father of the convicted person was not "affected by the judgment or order" within the meaning of section 548. I see no reason to construe the words, "affected by a judgment or order," narrowly. It certainly cannot be said that they refer to a person who is a party to the judgment or order, for the rights of the accused to a copy of the judgment are dealt with elsewhere in the Code. The public as a whole cannot fail to be affected by every judgment of a criminal court. For example, as in this case, the judgment in a criminal case dealing with sedition affects the general public, as indeed any judgment dealing with any crime is bound to affect the general public. A knowledge of the law, it is true, in many cases is made available to the public by statute, but the construction of statutes by the courts, as expressed in their judgments, is of even greater importance. It is a rule of law that every member of the public is presumed to know the law; it follows that the public must have a right of access to the judgments of the courts which express that law.

It is suggested by the learned District Magistrate in his explanation that if the right of the public to take copies of judgments is recognized, there would be a real danger of the legitimate work of the copying department, namely the supply of copies to the public for court purposes, being hampered by the demand for copies for

private purposes. I see no reason for this apprehension. The fact that payment has to be made for copies of judgments must by itself limit the applications to those persons who have a legitimate interest in the judgments required. If the fees for the copies are too small, they could no doubt be increased. While the right of the public to such copies must be recognized, and it is naturally of importance that demands for copies should be complied with as quickly as possible, there is nothing to prevent an officer in charge of such a department from regulating the work of his copying department in supplying copies asked for in such a way as not to interfere with the copyists' other work.

I am satisfied, whether on general principle or on a consideration of the existing statutes or of the rules prescribed by the High Court, that this reference must be accepted and the order of the learned District Magistrate set aside.

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Before Mr. Justice Kendall.

EMPEROR *v.* SOOBA AND OTHERS.\*

*Criminal Procedure Code, sections 167, 170, 173, 344—Detention of accused in police custody pending prolonged investigation—Remand of accused to custody—Powers of Magistrate regarding period of detention—Bail.*

Under section 167 of the Criminal Procedure Code a Magistrate to whom an accused person is forwarded by the police may authorise the detention of the accused for a period not exceeding 15 days in the whole. But that does not mean that a police investigation can in no case involve the detention of the accused in custody for more than 15 days. Under section 344 the Magistrate may remand the accused to custody for a period not exceeding 15 days at a time, and no limit is set to the number of such orders of remand.

The two considerations that should influence the court in deciding whether a remand should be granted are (1) whether sufficient evidence has been obtained to raise a suspicion that the accused may have committed the offence and

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\*Criminal Revision No. 101 of 1931, from an order of Tej Narain Mulla, Sessions Judge of Allahabad, dated the 19th of January, 1931.

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