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September 28.

RAMRATAN AND OTHERS

v.

THE STATE OF RAJASTHAN

(K. N. WANCHOO, K. C. DAS GUPTA and J. C. SHAH, JJ.)

Evidence—Single witness—Corroboration—Indian Evidence Act, 1872(1 of 1872), s.157.

The appellants were convicted on a charge of murder on the sole testimony of one witness. Another prosecution witness deposed that the former witness told him immediately after the incident that the appellants were responsible for the murder. The question which arose was whether it was necessary for the former witness also to depose in Court that he had told the names of the murderers to the other witness immediately after the occurrence or whether his former statement be proved under s.157 of the Indian Evidence Act to corroborate his testimony without his deposing about it in Court.

Held, that it was not necessary under s. 157 of the Evidence Act that the witness to be corroborated must also say in his testimony in court that he had made the former statement to the witness who was corroborating him. What s.157 required was that the witness to be corroborated must give evidence in court of some fact and if that was done his testimony in court relating to that fact could be corroborated by any former statement made by him relating to the same fact.

Mt. Misri v. *Emperor*, A.I.R. 1934 Sind 100 and *Nazar Singh* v. *The State*, A.I.R. 1951 Pepsu 66, held as wrongly decided.

As a general rule a court may act on the testimony of a single witness, though uncorroborated and the question whether corroboration of the testimony of a single witness was or was not necessary must depend on the circumstances of each case.

Vemireddy Satyanarayan Reddy v. *The State of Hyderabad*, (1956) S.C.R. 247, distinguished.

Vedivelu Thevar v. *The State of Madras*, (1957) S.C.R. 981, followed.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 248 of 1960.

Appeal by special leave from the judgment and order dated October 31, 1960, of the Rajasthan High Court in D. B. Criminal Appeal No. 290 of 1960 and D. B. Criminal Murder Reference No. 7 of 1960,

R. L. Anand, C. L. Sareen and *R. L. Kohli,* for the appellants.

S. K. Kapur and *T. M. Sen,* for the respondent.

1961. September 13. The Judgment of the Court was delivered by

WANCHOO, J.—This is an appeal by special leave from the judgment of the Rajasthan High Court. It arises out of an incident in which Bhimsen was murdered on May 8, 1959 at Mandi Pili Bangan shortly before 3 P.M. The prosecution story briefly was that there was bad blood between Ramratan appellant and the members of the family of Bhimsen on account of panchayat elections in which they had supported rival candidates. Another cause for enmity was that some time before the occurrence, Ramratan appellant was prosecuted under s. 307 of the Indian Penal Code and Bhimsen was cited as a prosecution witness in that case and Ramratan did not like that.

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Bhimsen and his father brought some gram for sale on the night between May 7/8, 1959, to Pili Bangan. Bhimsen returned to the village to bring more gram and came back at about 10/11 A.M. on the 8th on his tractor-trolly along with his brother Ram Partap. The gram was to be sold through Roopram and was stacked in front of his shop in the mandi. Ram Partap was apparently not interested in the sale and had wandered away leaving his father Jawanaram and his brother Bhimsen at the shop. Shortly before 3 P.M. while the gram was being weighed by Lekhram weighman, the three appellants and two others (namely, Moman and Ramsingh) came up there armed with guns. Ramratan shouted that the enemy should not be allowed to escape as Bhimsen was trying to enter the shop of Roopram to save himself on seeing these persons. Before, however, Bhimsen could enter the shop of Roopram, Ramratan came in between and fired at him from a distance of

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about 5 feet. Bhimsen got injured and fell down and died soon after. Jawanaram raised his hands and asked the assailants not to kill Bhimsen but Hansraj appellant fired at him causing a wound on his left hand, which resulted in a compound fracture. Maniram also fired at Jawanaram but he dropped on the ground and pellets hit Lekhram weighman who was standing behind Jawanaram. Thereafter all the assailants ran away. Roopram had shut up his shop when the incident took place and he only came out when everything was over. Jawanaram asked him to send telegram to police station Suratgarh and told him the names of the five assailants. Thereafter Jawanaram started for the police outpost in Pili Bangan to make a report; but Ramsingh constable met him on the way at a short distance from the shop of Roopram. Thereupon Jawanaram made a report (Ex. P-1) to Ramsingh then and there. While this report was being recorded, Ram Partap also turned up. After the report had been recorded, Jawanaram was sent to the hospital where his injuries were examined at 3-30 P.M. Ramsingh constable went to the spot after recording the report and found the dead body of Bhimsen lying in front of Roopram's shop. It appears that head-constable Govind Singh had gone outside and returned at 5 P.M. and started investigation thereafter. The Sub-inspector arrived on the scene at about 6 P.M. and took over the investigation and completed it. Thereafter the three appellants and two others who have been acquitted by the Sessions Judge were prosecuted for this murder. The case of the appellants was that they had not committed this offence and that they had been implicated on account of enmity. They examined no evidence in defence.

The main prosecution evidence consisted of the statements of Jawanaram, his son Ram Partap, Roopram and Lekhram as to what happened at the spot. Jawanaram related the whole story as given above. Ram Partap said that he had come near

the spot on seeing the assailants going that way and hid himself at some distance and saw the incident from there. Roopram's statement was that he shut up his shop as soon as he heard some noise outside and did not see the assailants. When he came out, however, he was told by Jawanaram the names of the five assailants and saw Bhimsen lying dead. He had also heard three reports of gunshots from inside his shop. He saw Jawanaram and Lekhram were also there injured and Jawanaram went away shortly after for making the report. Sometime thereafter the police came to the spot and started investigation. Lekhram stated that he was there weighing the gram. Four or five persons armed with guns came there and shouted and fired two or three times with the result that Bhimsen, Jawanaram and he were injured and Bhimsen died immediately. But he was unable to say whether the five persons in the dock were the assailants. Because of certain answers that he gave in cross-examination this witness was treated as hostile by the prosecution.

The Sessions Judge relied on the statement of Jawanaram and convicted the three appellants. He however, gave the benefit of doubt to the other two assailants and acquitted them. He did not rely on the statement of Ram Partap as he was of the view that Ram Partap did not arrive in the Mandi till about 6 P.M. He also did not rely on the statement of Lekhram, which in any case was useless in so far as the connection of the appellants with the crime was concerned. As to Roopram he held that his statement that Jawanaram had told him the names of the assailants immediately after the incident was over when he came out of his shop could not be used as corroboration of the statement of Jawanaram under s. 157 of the Indian Evidence Act, as Jawanaram had not said in his statement in Court that he had told Roopram the names of the five assailants He was also doubtful whether the report (Ex. P-I) was

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recorded at 3 P.M. and thought that it might have been recorded any time up to 6 P.M. But even so he placed full reliance on the evidence of Jawanaram only and convicted the three appellants, sentencing Ramratan to death and the other two to imprisonment for life.

This was followed by an appeal to the High Court by the convicted persons. The Sessions Judge also made a reference for the confirmation of the sentence of death passed on Ramratan. The High Court dismissed the appeal. It also accepted the evidence of Jawanaram in the main. The High Court was further of opinion that Ram Partap was in Pili Bangan when the incident took place having come there with his brother Bhimsen at about 10/11 A.M.; but the High Court did not think it fit to rely on his evidence as to the actual incident, for it thought that he had not been able to see it properly from where he said he was hiding. Further the High Court did not consider the evidence of Lekhram of much value as it did not connect the appellants with the crime. But the High Court was of the opinion that Roopram's statement that Jawanaram had told him immediately after the occurrence the names of the five assailants was admissible in evidence and could be used to corroborate the statement of Jawanaram. The High Court thought that this statement of Roopram was admissible under s. 6 as well as under s. 157 of the Evidence Act. The High Court therefore upheld the conviction on the evidence of Jawanaram corroborated as it was by the evidence of Roopram. The High Court having refused to grant a certificate, the appellants applied to this Court for special leave which was granted; and that is how the matter has come up before us.

Two main contentions have been urged before us on behalf of the appellants. In the first place, it is urged that the High Court was not right in the view that the statement of Roopram was

admissible under s. 6 and s. 157 of the Indian Evidence Act and went to corroborate the statement of Jawanaram. Secondly, it is urged that once the statement of Roopram is ruled out as inadmissible there is only the statement of Jawanaram left to connect the appellants with the crime and in the circumstances of this case that solitary evidence should be held insufficient to bring home the guilt to the appellants.

The first question therefore that arises in the appeal is whether the statement of Roopram to the effect that Jawanaram told him immediately after the incident, when he came out of his shop that the appellants and two others were responsib le for the murder of Bhimsen and the injuries to Lekhram and himself, is admissible, either under s. 6 or under s. 157 of the Indian Eviden ce Act. We do not think it necessary to consider whether this statement of Roopram is admissible under s. 6 of the Evidence Act and shall confine ourselves to the question whether it can be admitted under s. 157 as corroboration of Jawanaram's statement. Learned counsel for the appellants in this connection relies on *Mt. Misri* v. *Emperor* (1), and *Nazar Singh* v. *The State* (2) which support him and lay down that unless the witness to be corroborated says in his statement in court that he had told certain things immediately after the incident to another person, that other person cannot give evidence and say that the witness had told him certain things immediately after the incident. The argument is that the corroboration that is envisaged by s. 157 is of the statement of the witness in court that he had told certain things to the person corroborating the witness's statement, and if the witness did not say in court that he had told certain things to that person, that person cannot state that the witness had told him certain things immediately after the incident and

(1) A.I.R. 1934 Sind 100. (2) A.I.R. 1951 Pepsu 66.

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thus corroborate him. We are of opinion that this contention is incorrect.

Section 157 is in these terms:—

> "In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, or at about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved."

It is clear that there are only two things which are essential for this section to apply. The first is that a witness should have given testimony with respect to some fact. The second is that he should have made a statement earlier with respect to the same fact at or about the time when the fact took place or before any authority legally competent to investigate the fact. If these two things are present, the former statement can be proved to corroborate the testimony of the witness in court. The former statement may be in writing or may be made orally to some person at or about the time when the fact took place, if it is made orally to some person at or about the time when the fact took place, that person would be competent to depose to the former statement and corroborate the testimony of the witness in court. There is nothing in s. 157 which requires that before the corroborating witness deposes to the former statement the witness to be corroborated must also say in his testimony in court that he had made that former statement to the witness who is corraborating him. It is true that often it does happen that the witness to be corroborated says that he had made a former statement about the fact to some person and then that person steps into the witness-box and says that the witness to be corroborated had made a statement to him about the fact at or about the time when the fact took place. But in our opinion it is not necessary in view of the words of s. 157 that in order to make corroborating evidence admissible, the witness to be corroborated must also say in his evidence that he had made such

and such statement to the witness who is to corroborate him, at or about the time when the fact took place. As we have said already what s. 157 requires is that the witness to be corroborated must give evidence in court of some fact. If that is done, his testimony in court relating to that fact can be corroborated under s. 157 by any former statement made by him relating to the same fact, and it is not necessary that the witness to be corroborated should also say in his statement in court that he made some statement at or about the time when the fact took place to such and such person. The words of s. 157 are in our opinion clear and require only two things indicated by us above in order to make the former statement admissible as corroboration. We are therefore of opinion that the Sind and Pepsu cases were wrongly decided.

Now let us see what happend in this case. Jawanaram was examined in court and stated about a certain fact (namely, that the assailants of Bhimsen, Lekhram and himself were five persons whom he named). The testimony of Jawanaram to be corroborated is his statement in court with respect to the fact that five persons attacked Bhimsen, Lekhram and himself. Section 157 makes his former statement with respect to the same fact admissible provided that the statement was made at or about the time when the fact took place or before any legal authority competent to investigate the fact. In this case we are concerned with the first of the two conditions necessary, namely, whether he had made that former statement relating to the same fact at or about the time when the fact took place. The former statement which can be used as corroboration must be about the fact namely that Jawanaram had seen five persons attacking Bhimsen, Lekhram and himself and must have been made at or about the time when the fact took place *i. e.*, when the attack was made. Now Roopram says that Jawanaram

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had made the statement immediately after the incident was over that five persons including the three appellants had attacked Bhimsen, Lekhram and himself. This was therefore a former statement of Jawanaram at or about the time when the fact took place, namely, the attack by five persons on Bhimsen and others. This former statement can be proved by the person to whom it was made and can be used as corroboration of the evidence of Jawanaram. It was not necessary before the statement of Roopram as to what he heard from Jawanaram can be admissible for Jawanaram also to say in his testimony in court that he had told Roopram immediately after the incident the names of the five assailants of Bhimsen and others. The former statement which can be used as corroboration is the statement at or about the time the fact took place about which evidence has been given in court by the witness to be corroborated. Section 157 does not contemplate that before the former statement can be proved in corroboration, the witness to be corroborated must also say in his testimony that he had made the former statement. Of course if the witness to be corroborated also says in his testimony that he had made the former statement to someone that would add to the weight of the evidence of the person who gives evidence in corroboration, just as if the witness to be corroborated says in his evidence that he had made no former statement to anybody that may make the statement of any witness appearing as corroborating witness as to the former statement of little value. But in order to make the former statement admissible under s. 157 it is not necessary that the witness to be corroborated must also, besides making the former statement at or about the time the fact took place, say in court in his testimony that he had made the former statement. We are therefore of opinion that even though Jawanaram did not say in his statement in court that he had told Roopram the names of the five assailants, Roopram's

evidence that Jawanaram had made such a statement would be admissible under s. 157 in corroboration of Jawanaram's testimony as to the fact that five persons had attacked Bhimsen and others. As to the value to be attached to this corroboration in the present case, it is enough to say that Roopram is an independent witness and even though Jawanaram may not have said in evidence that he had told the names of the assailants to Roopram (perhaps by inadvertence as the High Court seems to think), we agree with the High Court in accepting the statement of Roopram that Jawanaram had immediately named the five persons who had attacked Bhimsen, Lekhram and himself. Thus the statement of Roopram corroborates the statement of Jawanaram in two ways : firstly, that there was an incident in front of his shop in which Bhimsen was murdered and Jawanaram and Lekhram were injured, and secondly, proves the former statement of Jawanaram as to the persons who took part in the incident, thus corroborating his statement in court under s.157. This is not therefore a case where there is no corroboration of the testimony of Jawanaram, even if he were the solitary witness of the incident itself.

As to the second point, namely, that we should not accept the solitary testimony of Jawanaram in the circumstances of this case, learned counsel relies on *Vemireddy Satyanarayan Reddy* v. *The State of Hyderabad* (1). In that case there was the solitary testimony of one witness and it was urged that he was an accomplice. This Court held that he was not an accomplice but remarked that "we would still want corroboration on material particulars in this particular case, as he is the only witness to the crime and as it would be unsafe to hang four people on his sole testimony unless we feel convinced that he is speaking the truth." The reason why this Court said so in that

(1) [1956] S. C. R. 247.

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case was that though the witness was not an accomplice his position was considered somewhat analogous to that of an accomplice though not exactly the same. It was in those circumstances that this Court said that corroboration in material particulars would be required in the circumstances of that case. We are of opinion that those observations cannot be divorced from the context of that case. In the present case Jawanaram is neither an accomplice nor anything analogous to an accomplice; he is an ordinary witness who was undoubtedly present at the time the incident took place. The case of such a solitary witness was considered by this Court in *Vadivelu Thevar* v. *The State of Madras* (1) and after referring to the earlier case it was held that as a general rule a court may act on the testimony of a single witness, though uncorroborated. It was further held that unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, and that the question whether corroboration of the testimony of a single witness was or was not necessary, must depend upon facts and circumstances of each case. These are the general principles which we have to apply in the case of the testimony of a single witness, like Jawanaram. But as we have held that in the present case there is corroboration of Jawanaram's statement by his former statement deposed to by Roopram, it is not a case of altogether uncorroborated testimony of a single witness.

In any case the evidence of Jawanaram has been considered by both the Sessions Judge and the High Court, and the Sessions Judge was prepared to convict the appellants on the sole testimony of Jawanaram while the High Court has also accepted that testimony, though it has added that it is corroborated by the statement of Roopram. In

(1) [1957] S. C. R. 981.

the circumstances when the evidence of Jawanaram has been accepted by both the courts, with or without corroboration, we see no reason to disagree with the conclusion of the two courts as to the value of Jawanaram's evidence. The criticism made against the acceptance of the evidence of Jawanaram has been considered by the two courts and in spite of that criticism the two courts have come to the conclusion that the evidence of Jawanaram is reliable. We agree with the estimate of that evidence by the two courts and hold that Jawanaram's evidence can be relied on in the circumstances of this case. Two main points are urged in this connection to shake the testimony of Jawanaram. It is said that Jawanaram has introduced Ram Partap in the first information report and that the Sessions Judge at any rate did not believe that Ram Partap was in Pili Bangan before 6 P.M.—though the High Court held otherwise. Secondly, it is said that Jawanaram did not make the first report at about 3 P. M. and the Sessions Judge at any rate held that the report could have been made at any time upto 6 P.M.—though the High Court held otherwise.

We have been taken through the evidence in this connection and we agree with the High Court that even though Ram Partap might not have actually seen the incident he had definitely come to Pili Bangan at about 11 A. M. with his brother Bhimsen. There is the evidence of Ram Singh constable who says that Ram Partap came there when the report (Ex. P-1) was being written at about 3 P.M., which is supported by the fact that Ram Partap's presence is mentioned in the report. The defence relied on a stetement in the inquest report (Ex.P-4) in which it is mentioned at the end that Ram Partap son of Jawanaram also arrived during the course of the completion of the inquest report and was sent along with the corpse. This means that Ram Partap was not present when the inquest proceedings began and arrived there when they

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were coming to an end. From this it cannot be inferred that Ram Partap was not in Pili Bangan at all before 6 P.M. There is ample evidence, which the High Court has rightly believed, to show that Ram Partap had come to Pili Bangan at about 10 or 11 A. M.

The other criticism with respect to the time when the report (Ex. P.1) was made is also in our opinion unjustified and the High Court was right in the view it took in that connection. There is no doubt that Jawanaram reached the hospital at 3-30 P.M. as deposed to by Dr. Sudershan Singh and that he was sent by the police. It is obvious therefore that Jawanaram had contacted the police before 3-30 P.M. It stands to reason that if he had contacted the police before 3-30 P.M. he must have made a report of the incident also and that is what exactly Ram Singh constable deposes. We agree with the High Court that in the circumstances there is no reason to disbelieve the statement of Ram Singh constable. The Sessions Judge was doubtful of the evidence of Ram Singh because he was of the view that documentary evidence from the police outpost at Pili Bangan had not been produced in support of Ram Singh's statement. Ram Singh was asked about it and stated that though Ex. P-1 did not bear the despatch number as it was not sent to the outpost at all, he must have made entries in the diary of the outpost about his starting from there and his return and also about the occurrence, though he did not remember about it. After this statement of Ram Singh, the Sessions Judge was not right in disbelieving him because of the non-production of the entries from the outpost. It would have been better if the prosecution had produced those entries ; but even if the prosecution rested upon the oral testimony of Ram Singh, the Sessions Judge could and should himself have sent for those entries, if he was inclined to disbelieve the oral testimony of Ram Singh constable who appears

to be a reliable witness. In the circumstances we are of opinion that the view of the High Court that the report was written at 3 P. M. as stated by Ram Singh constable is correct. The evidence of Jawanaram therefore cannot be rejected on these two grounds.

Lastly it was urged that Jawanaram had named five assailants and at least two have been acquitted, and that shows that Jawanaram is not wholly reliable. It is enough to point out that the Sessions Judge gave the benefit of doubt so far as two accused persons were concerned. He did not hold that Jawanaram's evidence was false with respect to those two persons. Apparently those two persons did not take any active part in the incident and that may have led the Sessions Judge to give them the benefit of doubt; that is, however, no reason for disbelieving the testimony of Jawanaram. We are therefore of opinion that the two courts below were right in relying on Jawanaram. His evidence is corroborated undoubtedly by other witnesses to the extent that the incident did take place at the shop of Roopram; his statement that the three appellants and two others were the assailants is corroborated by his former statement made immediately after the incident was over and deposed to by Roopram. In the circumstances we are of opinion that the appellants have been rightly convicted.

Two of the appellants (namely, Maniram and Hansraj) have been sentenced to imprisonment for life while Ramratan has been sentenced to death. The reason why Ramratan has been sentenced to death is that he was the man who shot Bhimsen. He was also the leader of this group and the enmity was directly between him and the members of the family of Jawanaram. We agree with the High Court that there are no extenuating

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circumstances which would justify the reduction of sentence of death passed on Ramratan.

The appeal therefore fails and is hereby dismissed.

Appeal dismissed.

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September 13.

DR. H. S. RIKHY AND OTHERS

v.

THE NEW DELHI MUNICIPAL COMMITTEE

(BHUVANESHWAR PRASAD SINHA, C. J., P.B. GAJENDRAGADKAR and RAGHUBAR DAYAL, JJ.)

Rent control—Fixation of standard rent—Maintainability of application—Relation of land and tenant, if essential—Delhi and Ajmer Rent Control Act, 1952 (38 of 1952), ss. 2(c), 2(g), 2(j), 8, 38—Punjab Municipal Act, 1911 (Punjab III of 1911), ss.18, 47.

The respondent Municipal Committee, in pursuance of a resolution passed by it, called for tenders and put the respondents, who made the highest offers, into possession of certain shops and premises on amounts varying from Rs. 135-8-0 to Rs. 520 payable for every month. After they had continued in possession for some years on payment of the said amounts, described as rents in the receipts, the appellants applied under s.8 of the Delhi and Ajmer Rent Control Act, 1952, for standardisation of rent. There were admittedly no contracts of transfer in writing signed and attested in the manner prescribed by s.47 of the Punjab Municipal Act, 1911. The respondent took the preliminary objection that the applications were not maintainable as there was no relation of landlord and tenant between the parties within the meaning of the Rent Control Act. The trial court found in favour of the appellants but the High Court in the exercise of its revisional jurisdiction set aside the decision of the trial court.

Held, that it was evident from the definitions of the terms 'landlord', 'premises and tenant' contained in ss. 2(c), 2(g) and 2(j) that the Delhi and Ajmer Rent Control Act, 1952, that the Act applied only to such letting of premises as created an interest in the property, whatever its duration, and gave rise to the relation of landlord and tenant between the parties.