

REVISIONAL CIVIL

Before Kapur, J.

S. AJIT SINGH,—Petitioner

versus

SHRI ASHWANI KUMAR AND OTHERS,— Respondents.

Civil Revision No. 97 of 1953

Indian Evidence Act (I of 1872)—Section 123—Privilege—How to be claimed—Punjab Police Rules, Volume III—Rules 22.64 and 22.65—Registers Nos. 13 and 14 maintained under—Whether privileged documents.

1953

June, 1st

The plaintiff brought a suit for damages for malicious prosecution against the defendants and called upon one of the Police Officers to produce Registers Nos. 13 and 14. Privilege was claimed by a certificate of the Home Secretary being filed which was allowed. On revision to the High Court

Held, that privilege can only be claimed by the head of the department or by the Secretary of that department on an affidavit. Filing of a certificate only is not enough.

Held, that the entries in Registers Nos. 13 and 14 maintained under Police Rules Nos. 22.64 and 22.65, contained in Punjab Police Rules, Volume III, are privileged and cannot be compelled to be produced in Court.

Governor-General in Council v. H. Peer Mohd. Khuda Bux and others (1), followed.

Petition under section 44 of Act IX of 1919, Punjab Courts Act, for revision of the order of Subordinate Judge, 1st Class, Ambala, dated the 11th March, 1953, holding that the documents cannot be produced in Court and refusing to

admit material evidence, for setting aside the order of the Court below.

H. S. GUJRAL, for Petitioner.

S. M. SIKRI, Advocate-General, for Respondent.

JUDGMENT

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KAPUR, J. This is a rule obtained by the plaintiff against an order passed by Mr. Parshotam Sarup, Subordinate Judge, 1st Class, Ambala, dated the 11th of March 1953, holding that entries in Registers Nos. 13 and 14 are privileged and giving effect to the privilege claimed by Government.

The plaintiff has brought a suit for damages for malicious prosecution against the defendants and he called upon one of the Police Officers to produce Registers Nos. 13 and 14. Privilege was claimed by a certificate of the Home Secretary being filed, in spite of its having been indicated in a Full Bench of this Court, *Governor-General in Council v. H. Peer Mohd Khuda Bux and others* (1), that such a privilege can only be claimed by the head of the department or by the Secretary of that department on an affidavit. In this particular case only a certificate was given which is contrary to what has been said in the Full Bench, but no objection was taken either in the Court below or in the grounds for revision here, although Mr. Harbans Singh Gujral did try to take objection at the time of arguments but was not allowed to do so.

Register No. 13 is provided for under Chapter 22, rule 64, of the Punjab Police Rules, Volume III. In the first portion of this rule it is stated as under :—

“ 22. 64(1) This is a blank book of foolscap size in which shall be entered the dates of all inspections and any matters requiring the attention of the officer in

charge of the police station which have not been entered in the inspection report. Inspecting officers shall satisfy themselves that old volumes of this register, which form a valuable record of the past history of the police station, are intact.

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- (2) Notes should be made in this register of matters permanently affecting the conditions of the police station, e.g., changes in police station or zail boundaries ; imposition and removal of additional police posts ; construction of new buildings, etc.
- (3) The register is a confidential and privileged record ; with the exception of gazetted police officers, no one except the District Magistrate, and a Sub-Divisional Officer specially authorised under rule 1.20 may enter remarks in it or examine it."

Under rule 65 of this Chapter Register No. 14, is provided for and the rule is as follows :—

" 22. 65. A file book shall be maintained for the record of gazetted officers' inspection reports. Covers of standard pattern, in which reports can be kept without risk of damage, are obtainable through the annual indent for departmental forms (*vide* rule 11.42). An index of inspection reports shall be maintained on the inside of the front cover."

It is submitted on behalf of the petitioner that these registers do not fall under the rule laid down by the Full Bench in the case indicated above. But in my opinion they do. At page 161 of the report of the Full Bench Khosla, J., made reference to the judgment of Lord Blanesburgh in *Asiatic Petroleum Co. v. Anglo Persian Oil Co.* (1),

S. Ajit Singh where one of the grounds of protection was administrative character of the document. In my judgment at page 171, it is stated :—

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“But the sole object of this privilege * * * is that the disclosure would be injurious * * * * for the proper functioning of public services and it is necessary to keep that document * * * * secret.”

Viscount Simon, L.C., said in *Duncan v. Cammell Laird and Co., Ltd.* (1), as follows :—

“After all the public interest is also the interest of every subject of the realm, and while, in these exceptional cases, the private citizen may seem to be denied what is to his immediate advantage, he, like the rest of us, would suffer if the needs of protecting the interests of the country as a whole were not ranked as prior obligation.”

Following the observations given in the Full Bench judgment I am of the opinion that the learned Judge rightly allowed privilege and I, therefore, dismiss this petition and discharge the rule with costs.