

paid by the Punjab Government when the land was originally acquired for the petitioner-school in 1956, after the award was made and that the possession of the land is also with the Government. The petitioner's learned counsel had stated at the time the petition was admitted, that the petitioner-school had paid the compensation under the award and an affidavit to that effect has also been filed by way of replicaion which has not been controverted. It is, therefore, apparent that the amount of compensation was paid by the petitioner-school. That the petitioner-school is in possession of the land, admits of no doubt because in the notification under section 4 of the Act dispensing with the hearing of the objections and in the notification under section 6 of the Act, directions were given to take possession under section 17(1) of the Act. This notification clearly shows that the possession of the land is with the petitioner-school. If it had not been so and the land vested in the State Government and was its property, there was no occasion for issuing notifications under sections 4 and 6 with regard to this land for its acquisition, for no one acquires its own land. The petitioner-school was also given a notice under section 9 of the Act to file its claim for compensation which clearly shows that the petitioner-school is in possession of the land and is interested in opposing the acquisition proceedings now being taken. I, therefore, hold that the petitioners school has the *locus standi* to file the present petition.

(8) For the reasons given above, this petition is accepted with costs and the impugned notifications under sections 4 and 6 of the Act, in so far as they relate to the land measuring 587 bighas 9 biswas acquired in 1956 for the petitioner-school, are hereby quashed. Counsel's fee Rs. 100.

R.N.M.

REVISIONAL CRIMINAL

Before R. S. Narula, J.

THE PUNJAB STATE,—Petitioner.

Versus

RAMJI DASS AND OTHERS,—Respondents.

Criminal Revision No. 502 of 1969

June 27, 1969

Code of Criminal Procedure (V of 1898)—Section 173(4)—Evidence Act (I of 1872)—Section 145—Whether subject to section 173(4)—Previous statement of an Investigating Officer of a criminal case made in some'

The Punjab State v. Ramji Dass, etc., (Narula, J.)

departmental enquiry—Accused person—Whether entitled to a copy of such statement for cross-examination of the Investigating Officer at the trial.

Held, that section 145 of the Evidence Act is not made subject to section 173(4) of the Code of Criminal Procedure. Nor is there any other statutory bar to the availing of normal rights and remedies of a litigant under section 145 of the Evidence Act for accused person in criminal trials. An accused can cross-examine an investigating officer of a criminal case as to his previous statement made by him during some departmental proceedings, if the statement is reduced to writing—though in third person—and which statement or part thereof is relevant to the matters involved in the trial of the accused. If during the course of such cross examination the accused intends to contradict the witness by confronting him with any part of his such previous statement, it would be incumbent on him to call the attention of the witness to those parts of his previous statement, which are sought to be used for the purpose of contradicting him, before his such previous statement can be proved. It necessarily follows that to enable an accused person to exercise his above-mentioned rights he must be permitted to obtain a copy of the relevant previous statement of the witness according to law. (Para 3)

Petition under section 439 of the Criminal Procedure Code, for revision of the order of Shri Muni Lal Verma, Sessions Judge, Bhatinda, dated 27th May, 1969, directing the petitioner to supply a copy of the statement of A.S.I. Kartar Singh to the accused-petitioner.

D. N. RAMPAL, ASSISTANT ADVOCATE-GENERAL, PUNJAB,—for the Petitioner.

K. S. KWATRA, ADVOCATE, for Respondent No. 2.

NARINDER SINGH, ADVOCATE, for Respondent No. 3.

JUDGMENT

NARULA, J.—This is State's petition for revision of the order of the Court of Shri Muni Lal Verma, Sessions Judge, Bhatinda, dated May 27, 1969, wherein he held that though he could not furnish to the accused a copy of an alleged previous statement of Assistant Sub-Inspector Kartar Singh, P.W., said to have been given by him before the Deputy Superintendent of Police Richhpal Singh under sub-section (4) of section 173 of the Code of Criminal Procedure, the accused could proceed to cross-examine the said Prosecution Witness in accordance with the provisions of section 145 of the Evidence Act and he may apply for a copy of the relevant previous statement to the proper authority and in a proper manner for that purpose if it becomes necessary to do so.

(2) The petition has been contested by the learned counsel for Mukhtiar Singh accused, who had made an application to the Court

of Session for supplying a copy of the statement of Assistant Sub-Inspector Kartar Singh alleged to have been recorded by Deputy Superintendent of Police Richhpal Singh either in the Police diary or otherwise. The learned Assistant Advocate-General, Punjab, who appears for the State, has submitted that the statement of Assistant Sub-Inspector Kartar Singh had neither been recorded in the police diary nor during the investigation of the criminal case but had in fact been recorded in some departmental proceeding. The learned State counsel, therefore, concedes that the purview of sub-section (1) of section 162 of the Code of Criminal Procedure does not bar the use of the statement in question by the accused, if it is otherwise permissible for him to obtain and utilise the same. It is the common case of both sides that the document in question does not fall within the four corners of sub-section (4) of section 173 of the Code of Criminal Procedure. Counsel, therefore, concede that it is no part of the duty of the officer in charge of the police-station to furnish or cause to be furnished to the accused a copy of the statement in question.

(3) For the same reason the Court cannot order the Public Prosecutor to furnish a copy of such a document under section 173(4) of the Code of Criminal Procedure. The contention of Mr. D. N. Rampal, the learned Assistant Advocate-General, is that the normal right of a party to a litigation under section 145 of the Indian Evidence Act, 1872, is restricted, so far as an accused person in a criminal trial is concerned, to the obtaining of only those documents which are mentioned in sub-section (4) of section 173 of the Code of Criminal Procedure for the purpose of contradicting a witness with reference to his previous statement. I find no warrant whatever for such a proposition. Section 145 of the Evidence Act is in the following terms:—

“A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved be called to those parts of it which are to be used for the purpose of contradicting him.”

Section 145 of the Evidence Act is not made subject to section 173(4) of the Code of Criminal Procedure. Nor has any other statutory

**The Workmen of Fire Brigade Section of the Municipal Committee,
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bar to the availing of the normal rights and remedies of a litigant under section 145 of the Evidence Act has been shown to exist for accused persons in criminal trials. I, therefore, hold that the accused can cross-examine the investigating officer as to his previous statement made by him before the Deputy Superintendent of Police during some departmental proceedings, which statement was reduced to writing—though in third person—and which statement or part thereof is relevant to the matters involved in the trial of the accused. It is further held that if during the course of such cross-examination the accused intends to contradict the witness by confronting him with any part of his such previous statement, it would be incumbent on him to call the attention of the witness to those parts of his previous statement, which are sought to be used for the purpose of contradicting him, before his such previous statement can be proved. It necessarily follows that to enable an accused person to exercise his above-mentioned rights he must be permitted to obtain a copy of the relevant previous statement of the witness according to law. This is all that the learned Sessions Judge has ordered. I am, therefore, unable to find any flaw in the orders under revision and have no hesitation in upholding the same. This petition for revision accordingly fails and is dismissed.

K.S.K.

CIVIL MISCELLANEOUS

Before H. R. Sodhi, J.

**THE WORKMEN OF FIRE BRIGADE SECTION OF THE MUNICIPAL
COMMITTEE, FARIDABAD,—Petitioner.**

Versus

K. L. GOSAIN AND OTHERS,—Respondents.

Civil Writ No. 3470 of 1968

July 14, 1969

Industrial Disputes Act (XIV of 1947)—Sections 2(j) and 10—Fire Brigade service maintained by a Municipal Corporation—Whether an “industry” within the meaning of section 2(j)—Disputes between Fire Brigade employees and the Municipal Corporation—State Government—Whether can refer such disputes to an Industrial Tribunal under section 10.