

and there is no ground for holding that the landlord in the present case is not a person of the type, that he would have entered into any compromise with such a tenant after having made all that effort. The trial Court, which had the advantage of seeing the witnesses in the witness-box, came to a definite conclusion that the witnesses produced by the judgment-debtor tenant were not reliable and were not stating the truth. He went even to the extent of holding that the objections were false and frivolous. The lower appellate Court affirmed this finding and I see no reason to differ from the same. I would, therefore, accept this execution second appeal, set aside the judgment and decree of the lower appellate Court and restore that of the trial Court. The appellant will have his costs in this Court and the lower appellate Court from the respondent, in addition to the costs awarded by the Executing Court.

Mangat Ram  
v.  
Om Parkash  

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Harbans Singh, J.

Parties are directed to appear before the executing Court on 5th of October, 1965, for further proceedings. No records were sent for. A copy of this judgment should be sent to the executing Court immediately.

R.S.

REVISIONAL CRIMINAL

*Before D. Falshaw, Chief Justice*

SADHU SINGH,—*Petitioner*

*versus*

THE STATE,—*Respondent*

Criminal Revision No. 196 of 1965

*Evidence Act (I of 1872)—S. 27—Disclosures statement—When is of importance—Stock witnesses of the police—Whether to be believed.*

1965

September; 17th.

*Held*, that a disclosure statement under section 27 of the Indian Evidence Act, only has any meaning at all if the place from where the incriminating article is recovered is really a place of concealment which it will be difficult, or impossible for the police to discover without some assistance from the accused, and when stock witnesses are brought in to support, a meaningless disclosure statement of the accused, no weight can be attached to their testimony.

*Held, that the evidence of the stock witnesses of the police is to be weighed with caution and care and is not to be rejected outright.*

*Petition under Section 439, Criminal Procedure Code, for revision of the order of Shri Raghbir Singh, Additional Sessions Judge, Amritsar, dated the 31st December, 1964, affirming that of Shri O. P. Taneja, Magistrate Ist Class, Patti (District Amritsar), dated the 30th November, 1964, convicting the petitioner.*

D. N. RAMPAL, ADVOCATE, for the Petitioner.

V. P. PRASHAR, ADVOCATE, FOR THE ADVOCATE-GENERAL, for the Respondent.

#### JUDGMENT

Falshaw, C.J.

FALSHAW, C.J.—This is a revision petition by Sadhu Singh, who has been convicted under section 9 of the Opium Act and sentenced to one and a half year's rigorous imprisonment.

The prosecution story is that in consequence of secret information Sub-Inspector Ajit Singh of the Police Station Khalra, organised a party which included Madan Lal and Sardul Singh, P.Ws., members of the public, and went to the house of Sadhu Singh, a young man of 25, early on the morning of the 16th of April, 1964. It is alleged that on interrogation Sadhu Singh disclosed that he had two kilos of opium in a tin box in his trunk. He then opened the trunk and took out the tin box which actually contained two kilos of opium wrapped in a piece of cloth.

The accused denied his guilt and said that a false case had been brought against him because his father Kehar Singh, who is a lambardar, had refused to support a false case against one Tara Singh. The details of this alleged incident were related by Kehar Singh, Lambardar, who also stated that he and his brother Teja Singh and his sons Sadhu Singh and Avtar Singh, jointly lived in the house where the opium was alleged to have been recovered. This was also supported by other defence witnesses, but the prosecution story has been believed by the trial Court and by the learned Additional Sessions Judge.

The first attack in revision is made on the fact that the two non-official witnesses, who have supported the story of the disclosure statement and the recovery are both from distant villages, one even coming from a place 40 miles from Khalra, although it was admitted that Khalra is a place

of considerable size with four or five thousand inhabitants. Moreover it was proved from their statements that they had frequently given evidence for the police. Even the learned Magistrate remarked that it was amply established that these witnesses were the stock witnesses of the police, but he went on to say that that only meant that their evidence was to be weighed with caution and care and not to be rejected outright, a view to which in my opinion no exception can be taken. However, I should have thought that in the present case it should not have been impossible for the police to obtain some better witnesses from a place of the size of Khalra. What is more serious in the present case is that in my opinion the use of section 27 of the Evidence Act for the purpose of introducing a so-called disclosure statement becomes meaningless and almost farcical, since it is quite obvious that the opium was not in a place of concealment at all and could have been found by the most perfunctory search by a police officer. A disclosure statement in my opinion only has any meaning at all if the place where the incriminating article was recovered is really a place of concealment which it would be difficult or impossible for the police to discover without some assistance from the accused, and when stock witnesses are brought in to support a meaningless disclosure statement of this kind I am of the opinion that no weight can be attached to it. This means that the opium was discovered in a place to which, according to the defence evidence, at least four persons had access as inhabitants of the house, and without the so-called disclosure statement there could be no question of exclusive possession by any member of the household. On this ground I regard the case as not conclusively established against the petitioner and I accordingly accept the petition and acquit him. His bail bond will be cancelled.

*B.R.T.*

APPELLATE CIVIL

*Before A. N. Grover and Jindra Lal, JJ.*

RAM LABHAYA.—Appellant

*versus*

THE MUNICIPAL COMMITTEE, AMRITSAR.—Respondent

Regular First Appeal No. 313 of 1957

*Limitation Act (IX of 1908)—Articles 62 and 97—Contract Act (IX of 1872)—S. 65—Contract entered into and parties performing their obligations under it for some time—Contract discovered to be* 1965  
September 20th.

Sadhu Singh

*v.*

The State

Falshaw, C.J.