

## SILENCE AS A SHIELD AND INTERROGATIVE RESTRAINTS: UNDERSTANDING THE LEGAL IMPLICATIONS SET OUT IN NANDINI SATPATHY V. P L DANI

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### INTRODUCTION

The fundamental rights enshrined under the Indian Constitution have an overriding effect on the statutes that go contradictory to them<sup>1</sup>. In the coming analysis, the matter at hand to be discussed would be an analysis of the landmark judgment “Nandini sympathy v P.L Dani”<sup>2</sup>. The forthcoming information states the power and scope of Article 20 (3)<sup>3</sup>, the right to remain silent, self-incrimination and interrogative restraints.

A Latin maxim “Nemo tenetur prodere accusare seipsum” which means “no man is bound to accuse himself” can be understood as an essence of the principle enshrined under Article 20(3). This article is stated in the bare act as “ No person accused of any offence shall be compelled to be a witness against himself”. For instance: if a person is accused of murder and during the investigation, the police compel him to confess the truth and be a witness against himself. He is not bound to do so, a person during the stage of trial or investigation is never bound to be a witness against himself and Article 20 (3) overrides any statute’s provision which states so.

### BACKGROUND INFORMATION AND FACTS

The accused was booked under certain sections of the Indian Penal Code<sup>4</sup> and sections 5 (2)<sup>5</sup> and 5 (1)(d)<sup>6</sup> Of the Prevention of Corruption Act 1988 by the Deputy Superintendent of Police, vigilance, Cuttack. The lady Nandini Satpathy, the former chief minister of Orissa, is the accused in this case. She was booked under the aforementioned sections and charged with corruption. The charges against her revolved around the allegations that she misused her authoritative position as claimed, she allegedly took monetary advantage and incorrectly allotted a land plot in Cuttack to a person, Prafull Kumar Rate, which valued rs. 24 lakhs. The

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<sup>1</sup> Constitution of India 1950. Art 12-35

<sup>2</sup> *Nandini Satpathy v P L Dani AIR 1978 SC 1025*

<sup>3</sup> Constitution of India 1950, art 20 (3)

<sup>4</sup> Indian Penal Code 1860, s 109, 120B, 161, 165

<sup>5</sup> prevention of Corruption Act 1988, s 5 (2)

<sup>6</sup> prevention of Corruption Act 1988, s 5 (1)(d)

case revolves around the term ‘disproportionate asset’ which means that when “assets or wealth are significantly higher than the known source of income of an individual”. The chief minister, in this case, was alleged to have gained an illegal advantage by allotting the plot during her tenure. It was alleged that she pursued this act to increase her wealth.

During interrogation by the superintendent of the police in Cuttack, she refused to state any fact and alleged that it was a violation of her fundamental right to compel her to be a witness against herself.

After unsuccessful attempts by the superintendent of police, he filed an objection in the sub-divisional magistrate office in Sadar, Cuttack wherein the accused argued that the notice violates her self-incrimination right as enshrined in article 20 (3).

The petition was rejected in the magistrate's office and an order was given to appear before the court hence the matter went to the High Court and then to the Appellate Court. The appellant moved to the high court under Article 226<sup>7</sup> and Section 401 of CRPC<sup>8</sup>, however, her plea was rejected and aggrieved by which she approached the honourable supreme court under Article 132 (1) of the Constitution of India<sup>9</sup>.

## THE LEGAL ISSUES

What is the ambit and scope of Article 20 (3) and can it override the other statutes?

Is the accused compelled to be a witness against herself or does she have a right to remain silent during the interrogation stage?

By analysing sections 161 of CRPC and 179 of the Indian Penal Code, what conclusion can be drawn?

When a person becomes a witness against herself and gives testimony and confesses her guilt, is it sufficient to conclude that the person is proven guilty?

Who does ‘any person’ under section 161 of the Code of Criminal Procedure (crpc) refer to?<sup>10</sup>

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<sup>7</sup> Constitution of India, art 226

<sup>8</sup> code of criminal procedure 1973, s 401

<sup>9</sup> Constitution of India, art 132 (1)

<sup>10</sup> “Examination of witnesses by police” provides for oral examination of a person by any investigating officer when such person is supposed to be acquainted with the facts and circumstances of the case”

## **ARGUMENTS FROM THE SIDE OF APPELLANT**

Section 161 (1) of CRPC prevents an accused within the scope of “any person”

The accused is secured and defensible to not disclose any information that shall, according to him, be harmful to him by citing self-incrimination - as laid in article 20 (3) of the constitution of India.

The appellant also contended that when a series of questions are being asked of the accused will form a chain of links to the case of the prosecution but questions which are not related will lead the appellant in exposed to other criminal charges or charges because there are other cases against which a charge-sheet can be produced.<sup>11</sup>

## **ARGUMENTS FROM THE SIDE OF RESPONDENT**

The side of the respondent argued that article 20 (3) may only be applied when a suspect is brought before for prosecution, instead of combining article 20 (3) of the Constitution of India and section 161 (1) as they do not go together when there is a stage of interrogation by the police officer.

## **JUDGEMENT**

The court held that if one is compelled to be a witness in his case at the police station then it amounts to a breach of section 161 (1) along with section 161 (2) and article 20(3).

The decision was given by a 3 judge bench that comprised of Justice JS, Justice V.D.Tulzapurkar, and Justice V.R. Krishna Iyer. The appellant in the said case is Nandini Satpathy and the respondent is P.L. Dani.

The court cannot compel any person to be a witness in his case and the autonomy of section 20 (3) in this case shall be upheld. No provision of any statute is above the fundamental rights enshrined in the constitution of India.

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<sup>11</sup> samridhi Srivastava “leaders”(Right to be silent : Nandini Satpathy v. PL Dani 1978 SC, 6 January 2021)<<https://blog.ipleaders.in/right-silent-nandini-satpathy-v-pl-dani-1978-sc>>accessed 25 June 2024

Referring to the case of *Pakala Narayana Swami v. Emperor*<sup>12</sup>, the court noted that the term ‘any person’ given in section 160 (1) shall mean the accused and the suspect wrongdoer i.e. a person who may know the nitty-gritty of the details of the case at hand.

The court also cited **cruel and brutal methodology** that states when police take any action against the accused so that he confesses the truth. Taking into account, every element of torture an accused has to face, the autonomy of Article 20 (3) shall be upheld and downgrading it would defeat the very purpose of the article.

The concept of ‘means rea’ enshrined under section 179 of IPC refers to the element of ‘intention’. The other element is ‘acts reus’ which refers to the action of the person. A person to be proven guilty shall fulfil both essential elements. A person can never be compelled to confess against himself if he has the privilege to choose otherwise.

### AN ANALYSIS OF THE JUDGEMENT

Analysing the reasoning given by the judges, a line conclusion could be the judgement paved the way and acknowledged the rights of the accused. As enshrined under the natural justice principle, the process shall be fair and justice shall be upheld. Compelling a person and forcing them to confess the truth so that he/she can be proven guilty at An early stage is not fair and reasonable.

Going into the nitty-gritty and upholding Article 20 (3), which is a fundamental right, fulfils the intention of constitution-makers and this case provided liberty for criminal law to evolve in a good and vast sense. Often, the process of interrogations by police goes unnoticed and only the thing kept material are the confessions of the accused, this case breaks that chain and addresses the issue very reasonably.

As Police officers are known as “the protector of public interest” are bound to keep in mind the literal meaning of it and act according to their interest fairly and reasonably while at the same time doing their job. Forcefully compelling any person to confess the truth and that too in respect to against himself shall not be entertained and hence the move taken by the Honourable Supreme Court is appreciated.

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<sup>12</sup> *Pakala Narayana Swami v King Emperor* [1939] 1 MLJ 59

An accused, until and unless is not convicted of an offence, is a person against whom no offence has been proved yet so he has all the rights to be treated fairly and humane, however, we have often acknowledged the fact that the same thing goes unnoticed and many people get a brutal treatment and the ground reality of the same hits different. However, it is a very right action taken by the honourable Supreme Court to acknowledge the issue and uphold the right judgment, taking into account and upholding what is humane and fair.

This case upholds the fundamental rights of a person, also a basic structure essence, and differentiating as to what accounts for humane conduct.

## CONCLUSION

Interpreting the rights of the accused and enshrining a right procedure for them was a laudable step taken by the Supreme Court in this case. This landmark judgment has very well acknowledged the rights of the accused and put a bar of limitations on the power of the officers or police officers at the time of interrogation. The need of an hour was to define the right of self-incrimination enshrined under Article 20 (3), which was done in this case. Now, the procedure is known and the accused has learned about his rights. In case of any force by the police, the accused can approach the court for the same citing this judgement as the fundamental rights were given an upper hand and interpreted to the core of its essence.