

"Premier Has No Personal Right To Carry Out Or Cancel G. O."

MR. K. M. BALASUBRAMANIAM'S DEFENCE ARGUMENTS

—(a)—

"Exhortation To Do Satyagraha Does Not Mean Exhortation To Loiter Or Idle Before Premier's House"

Madras, July, 30.

At the resumed hearing of the case against him for abetment of picketing in front of the Premier's house in Theagaroyanagar, in connection with the Anti-Hindi Movement, Mr. K. M. Balasubramaniam, B. A. B. L., Advocate, further cross-examined the Prosecution witnesses on Wednesday afternoon, (July, 27) before Mr. K. Kunnikrishna Nair, Acting Chief Presidency Magistrate Egmore.

Mr. Kesava Menon, C. I. D. Sub-Inspector was cross-examined first.

Q. Are you in charge of looking after the Anti-Hindi propaganda activities in this city?

A. It is my duty. I am the Intelligence Section Sub-Inspector.

Q. What is it exactly that you are asked to do with reference to the Anti-Hindi movement?

A. My duty is to watch the activities of law-breakers. I have no special orders as regards the Anti-Hindi agitation.

Q. You have been closely following the activities of the Anti-Hindi movement in this city?

A. Yes.

Q. I suppose you also know something about what is taking place in the Presidency with reference to the Anti-Hindi movement. You said that an agitation was started to oppose the introduction of Hindi. Are you quite correct by describing us "Anti-Hindi Leaguers."

A. I am sorry. It should be Anti-Hindi League.

Q. By that word, do you refer to the Provincial organisation or the city organisation?

A. I refer to the city organisation.

A. If you say that it is the name of the city organisation, what is the name of the Presidency organisation? I think there is one.

A. I do not know whether there is any other provincial organisation.

Q. Have you ever heard the name "Anti-Hindi Propaganda Committee?"

A. Yes.

Q. Do you know the office-bearers of the Committee?

A. I don't know.

The Anti-Hindi League

Q. When was this Anti-Hindi League started?

A. It was started in the beginning of May, 1938.

Q. You don't know the exact date? Who are the organisers thereof?

A. No. The accused.

Q. Who are the others.

A. Mr. C. D. Nayagam, Elathu Sivananda Adigal, Swami Shanmugananda, Swami Arunagirinathar, and others.

Q. Where was it started?

A. It was started in the city.

Q. At what part of the city?

A. It was first started in the city and it used to meet at Mr. C. D. Nayagam's house.

Q. In the "city," means?

A. Till 31-5-38, they had no definite place of headquarters.

Q. You said that the League was started to carry on propaganda to coerce the Premier to cause the cancellation of the Order introducing compulsory Hindi? Was there any resolution passed to that effect?

A. Speeches were made at the meetings about it.

Q. From the speeches, you say that the League wanted to coerce the Premier?

A. I inquired. The object was to coerce the Premier.

Q. Was it only coercing that was advocated, and not persuasion in the course of the speeches? You never heard anything about persuading the Premier?

A. No.

Q. Till 31-5-38, there was no headquarters and so Mr. C. D. Nayagam's house became the headquarters.

A. Till 31-5-38 the organisers themselves were meeting in their own houses.

Q. In their own.....Whose houses?

A. I do not know.

Q. In their houses. In whose houses?

A. In one or other's.

Anti-Hindi Headquarters

Q. When did Venkatanarayana Road become the headquarters?

A. About 31-5-38.

Q. The headquarters shed was completed by 31-5-38. On that day it was formally opened. Till that day, you say, all these organisers were making speeches with a view to coercing the Premier to cancel the Order including the accused.

A. Throughout the month of May.

Q. On the day of the opening of the headquarters, was the accused present?

A. No.

Q. Does the accused hold any place or position in the Anti-Hindi League?

A. Yes.

Q. As a member?

A. As one of the prominent members.

Q. Have you got any record to show that I am a member thereof? Have you got any documentary evidence?

A. Yes. By the leaflets filed in this case.

The Word "Dictator"

Q. In the leaflets, I have been advertised as a speaker. That does not show I am a member of the League. Was I ever a "dictator" of this city? (Laughter).

Prosecuting Inspector intervening said: The term "Dictator" was objected to.....

Mr. K. M. Balasubramaniam: I am not fighting shy of it. Mr. Nayagam and others were "dictators". I take it that the "dictators" should conduct campaign in this city.

A. The "dictators" and organisers.....propagandists.....

Q. Organisers are different from propagandists. What does the word "dictator" mean?

Prosecuting Inspector: What "dictator" means is for you to tell us?

K. M. B. I do not understand it. It is a question of English. It is also a question whether the procedure of the Anti-Hindi League is wrong.

Magistrate. He (Prosecuting Inspector) might have studied the facts. From these facts, we have to draw our inference.

Prosecuting Inspector: Whether the accused was crowned "dictator" or not, he should tell us.

Q. The accused is one of the members of the League, but is he necessarily a member of the Committee thereof?

Prosecuting Inspector: The accused himself has said so in the speech.

The Accused: That is the distinction which my friend is not able to make. There is difference between the City organisation and the Provincial one.—You have filed some advertisements in which my name is made mention of as a speaker on 8-5-38. Did you attend the meeting advertised?

A. No.

Q. Therefore, you do not know whether I have spoken at that meeting or not?

A. No.

Visit to Headquarters

Q. Do you know that though my name was advertised as a speaker, yet, I may not have spoken at that meeting?

A. Generally people whose names are announced are the speakers.

Q. Do you mean to say that throughout May I have addressed only a single meeting in the city of Madras?

A. I don't know.

Q. You have stated: "I have seen the accused visiting the Headquarters on many occasions?" How many occasions could you have seen me?

A. Many occasions.

Q. Means? More than one?

Q. It may be in the month of May or June? Are you positive about it?

A. Yes. In the month of June.

Q. Not May? I conferred with Mr. C. D. Nayagam, Sivananda Adigal, Swami Shanmugananda and others. I put it specifically that I should have conferred with them before the 4th or after the 4th of June.

A. You have conferred with them before and after 4th June.

Q. When was Mr. C. D. Nayagam arrested? On the 3rd June?

A. Yes.

Q. You have said that you have seen volunteers coming my house? How many volunteers did you see?

A. Yes. I cannot remember. I have seen more than six volunteers going to the accused's house.

Q. On the same day or on...?

A. On different dates. One occasion, I saw six volunteers on the 14th of June. I saw more than six volunteers.

Q. At a time?

A. Yes.

Q. Not before that?

A. Yes.

Q. At what time of the day did you see them?

A. I saw them in the morning at about 10 o'clock and in the night.

Q. At what time?

A. At about 11-30 p.

Q. How do you know that they were volunteers?

A. Because, they, afterwards, were found to loiter in front of the Premier's house. They were not permanent residents of Madras.

Q. You take them to be volunteers, because they are of fustil people.

A. They are fustil people from their dress....

Q. Except on that day, you have never come near the accused's house.

A. I have, several times.

"Advocate Can't Have Clients"

Q. You know that the accused is an advocate?

A. Yes.

Q. Therefore, he could have clients as well?

Magistrate: Quite possible. You can argue that.

Q. All those were Hindus or Muslims?

A. Muslim, well as Hindus.

Q. How many Muslims and how many Hindus?

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(Continued from page 4)

A. There were three Hindus and three Muslims.

Q. Hindu-Muslim Unity! You say that you saw one Mr. Yakub Khan on that day?

A. Yes.

Q. You didn't know his name at that time?

A. No.

Q. When was he arrested?

A. He was arrested on the 18th of June.

Q. Wherefrom did he proceed before going to the Premier's house?

A. From the Headquarters in Venkatanarayana Road.

Q. You don't know what we were talking when you saw these people in my house?

Q. When did you go to that High Court Bench meeting?

A. At about 5 o'clock.

Q. When did you see the accused there?

A. I saw the accused from about 6-30 or 7.

Q. 6-30 or 7 o'clock. You are not sure?

A. I am not sure.

Q. Where was the accused seated? Are you positive that you saw him speaking from beginning to end?

A. I saw him when he was speaking.

Q. When was the song sung by Swami Arunagirinathar?

A. At the beginning of the meeting.

Q. Therefore, I have not asked him to sing the song.

A. Yes.

At The Beginning Or End?

Q. When I spoke at that meeting, was it at the beginning or at the end?

A. I could not exactly remember whether it was at the beginning or at the end.

Q. Then, I put it to you that I spoke at 11 o'clock?

A. You spoke before 7 p. m.

Q. I put it to you that I have spoken at Tiruvottiyur on that day, and it may be at 9 o'clock that I spoke?

A. I cannot say at what time the accused spoke.

Witness, re-examined by Mr. Manickam Pillai, Prosecuting Inspector, said that the formal opening of the Headquarters and the license fee was paid on the 18th. The shed began to be constructed from that time onwards.

Mr. K. M. Balasubramaniam, with the permission of the Magistrate asked the witness: You have said that you have seen Yakub Khan. Have you got it recorded, or are you speaking from memory?

A. I have seen, and from my memory, I am speaking. I have not recorded it anywhere.

Cross-examined by Mr. Balasubramaniam, Mr. Gopal Rao, Shorthand Sub-Inspector testified to the correctness of some of the portions of the speech delivered by the accused.

Further hearing of the case was adjourned to Friday, July, 29.

FRIDAY'S PROCEEDINGS

Mr. K. M. Balasubramaniam, B. A. B. L., Advocate advanced arguments at the resumed hearing of the case against him yesterday afternoon before Mr. Kunnikrishna Nair, Ag. Chief Presidency Magistrate, Egmore, Madras.

Asked by the Court whether he wanted to examine witnesses for defence, Mr. Balasubramaniam said: "I have decided not to examine."

In the course of his arguments, he said that he had been charged with having instigated the public generally consisting of Tamilians, Muslims and Ad-Dravidas exceeding ten persons to resort to fasting and loitering in front of the house of the Premier of Madras as well as in front of the schools in which Hindi is taught with intent to cause the said Premier to abstain from carrying out the order or to procure the cancellation of the orders issued by the Government of Madras and thereby abetted the commission of an offence

punishable under Sec. 7, 1-A., Criminal Law Amendment Act of 1932 and committed an offence punishable under Sec. 117, I.P.C. The Prosecution, Mr. Balasubramaniam continued, had let in evidence through Mr. Kesava Menon, P. W. 1, but it had not proved the case against me. The utmost that he was able to say was that I was connected with the movement and made speeches in certain places at certain times. I have not been implicated by P. W. 1 with having done anything with reference to picketing or organising Anti-Hindi meetings. I admit that I am a member of the Provincial Anti-Hindi Propaganda Committee, and as such I have carried on propaganda against the introduction of compulsory Hindi. The evidence regarding my speaking with six volunteers on one fine night at 12 o'clock may not very much implicate me, as Your Honour knows that a number of people come to me since I happen to an advocate. In the examination-in-chief, the prosecution witness deposed that he had seen one Mr. Yakub Khan speaking to me. Cross-examined, he said, that he saw some persons and that three of them were Hindus and three, Muslims. If he could have seen three Muslims, nothing could have been easier for him than to have stated that he had seen them in the examination in chief. Except that, the witness said nothing against me which would bring me under the section under which I am charged. As for the speeches, which I am alleged to have delivered and reported by Mr. Gopal Rao, Shorthand Sub-Inspector, I submit that some passages are inaccurately reported and in certain places, inaccurately translated. I further submit that Your Honour will at least give me permission to read certain passages which are incorrectly translated from the Tamil speeches, admitted as evidence in this case. The exhibit "E" I which reads thus: "Two comrades have come for fasting. I know that if all get enrolled in the list of persons that are to fast, this meeting can be prolonged till about 12 o'clock."

Mr. Balasubramaniam next read that portion of the speech as recorded in shorthand by the Police Reporter, and said: that the translation of that passage was wrong. As regards the meeting being extended to 12 o'clock, I submit that the fact of the matter is, that the meeting had not been extended to 12 o'clock. When I said "If you two people had come to fast, I said it humourously. The sentence that "if you have got enrolled, it is possible to prolong this meeting" was an incorrect translation of the sentence spoken by me in Tamil. In exhibit "E-2", the word "quell or suppress" ought to have been instead of "kill". The Exhibit "E-3" stated; "I am only asking whether Tamilians are cowards." I asked whether there were true Tamils or brave Muslims. When I said so, I referred to a paper known as "Hindustan" which insinuated against Jagadeesan's fast, and I only asked the people that they should not, as persons endowed with a sense of self-respect, tolerate the continuance of such a paper. The next sentence is, I submit, reported wrongly, and it runs thus: If this soul is lost, thousands will have to die." I have never used in any of the speeches or in the whole of the speech that thousand lives of the opposite party will be lost. When I said that thousands will have to die I meant that our own lives, would have to be lost. I am aware that the charge is not with reference to this paragraph and so far as the Prosecuting Inspector is concerned, he has refrained from telling me what importance he attaches to these paragraphs. The speech was not I submit, a crusade, ruthless or

bloody in character. It was only a political demonstration in which all these militaristic words were used. Coming next to exhibit "G-2". I have said: "True Tamilians and valiant Muslims; I put you a question whether you are prepared to offer satyagraha" in a body in front of the Premier's house. In Tamil, the form in which the sentence is set, is quite improvable and unnatural. The Tamil report of the sentence itself is wrong. The subjective clause is common to the English language. When we generally speak in Tamil it ought not to have been split into two. It is unnatural and it is alien to the genius of Tamil language. I submit that that sort of sentence, I have never spoken.

The Prosecuting Inspector: I wish you did not speak. Mr. Balasubramaniam: I had spoken better than what has been reported. Further, I said that if 500 of us go to jail, they were sure of victory. I am one of those people who form the committee. Till June, 17th we have decided to do propaganda and appoint a committee and resolve afterwards to decide what we should do. As a member of the committee, I was bound by the decision that till 17th, we should organise meetings, do propaganda appoint committees and do nothing further and put off any consideration of civil disobedience. The previous sentence is inconsistent with the latter. Hence, I submit that both the sentences, as reported, are wrong.

The Magistrate, at this stage suggested that a written statement might be filed pointing out those portions that had been incorrectly reported.

Mr. Balasubramaniam said that the charge mentions that in certain passages of the speech, I have mentioned the word "satyagraha" "sit or do satyagraha" in front of the Premier's house or in front of the schools. So far as I have been able to find out that excepting in exhibits G-2, G-3, G-4, and J-2, J-3, J-4, and J-6, the whole of the speeches did not contain a single word with reference to satyagraha or picketing. "Whether you are prepared to offer satyagraha in front of Rajaji's house in a body," or "at least 500 of you must be prepared to go to jail." This I submit, was not said by me, and I did not make that statement as reported. I wanted people to perform satyagraha in front of Rajaji's house. The statement that five hundred should be prepared to go to jail and we are sure of victory does not mean that you should go to jail necessarily by means of performing satyagraha. Exhibits G-2 and G-3 say that I instigated people to offer Satyagraha in front of the Premier's house. Exhibit J-2 says: "It was not under any directions of the committee, but it was in my individual capacity, I requested the people to go and offer satyagraha." There also I used the word "satyagraha", and satyagraha in front of the Premier's house.

The Prosecuting Inspector. And their names have been entered into the Police Books? Mr. Balasubramaniam: That is the satyagraha which they had done. Further I said that if students go to school where Hindi is taught, people must do "Mariyal." "Mariyal" is purely a Tamil word. "Satyagraha" when I spoke with reference to the students, was that people should prostrate at the feet of the people and see that these things are done away with."

Meaning Of "Satyagraha"

"I do not think, proceeded Mr. Balasubramaniam, Your Honour requires a Sanskrit dictionary to find out what the word means! The word "Satya" means: true, real, sincere, honest and genuine, which is common to all languages. "Agraha" means: seize, take. The word "Satyagraha" means seizing the right by truthful means. That is what the Sanskrit dictionary says and that is what I have specially made clear in my speech. In all the speeches the prosecution had filed, only G. 2, G. 3 J. 2, J. 3, J. 4 and J. 6 can

apparently bring me under the charge. J-3 gives the key to what I mean by satyagraha. In none of the speeches I said that you must go and loiter in front of the house of the Premier. Satyagraha does not amount to loitering. Loitering means lingering and coming and going back. I can say "idling" and thereby causing nuisance. The word that I have used according to the Sanskrit dictionary primarily, had according to my conception of speech, secondarily, is satyagraha, and not loitering. My submission to Your Honour is that I have made it clear in all the speeches I have delivered. I had never instigated people to go and fast or loiter in front of the Premier's house or in front of the schools. Mr. Balasubramaniam next raised a legal objection [with regard to Sec. 7, 1-A Criminal Law Amendment Act and said that what he had done or said with reference to Satyagraha in front of schools could not come within the purview of the section in question.

Is There A Personal Right?

Referring to the coercing of the Premier, Mr. Balasubramaniam said that the Premier, is not under the Government of India Act, an authority to cancel the order passed as such. He may be a person or one of the persons responsible for this measure. Chapter III, Sec. 59, Clauses 1 and 2 says of the Government of India Act that the Premier is not the person who can cancel or carry out. The clause further says that it is the Governor who is responsible for the order, and it is in his name, according to the Act, the orders are passed. Mr. Rajagopalachari, or for a matter of that, a Hindi Pracharak may be responsible for an order, but that does not mean that Mr. Rajagopalachari has a personal right vested in him to carry out the order or to cancel it. According to the Government of India Act, it is the Governor who passes the order and it is he alone. The Premier has no right to cancel the order or enforce it. The purpose with which the picketers have been charged, was not the purpose which is calculated or contemplated by the Sec. 7, 1-A, Criminal Law Amendment Act. It is a well-known fact that it requires no evidence to let in that this Act was framed for the protection of personal rights of individuals. Encouragement of indigenous industries or advocacy of temperance was for which the Act was passed. Therefore, it enables a citizen to preach Swadeshi peacefully. It was never contemplated for the purpose of political transactions. I submit to Your Honour that even granting for argument's sake that Mr. Rajagopalachari had anything to do with it, it was, as a political matter that he was approached. It is a vested power of a citizen that he has got a right to approach him. The Prosecution case is that we have caused annoyance to him. What we have asked for is the exercise of an inherent and inborn right of every citizen to represent peacefully, constitutionally and prostrate at the feet of those who have been responsible for the issue of the order.

Therefore, I submit that there is no meaning in pleading here that Mr. Rajagopalachari's private right has been infringed. The Prosecuting Inspector has not given me the benefit of his address. We do not know where we are actually. No doubt, I have used abundantly all these militaristic words. Words worse than these have been indulged in and in the cases under which the persons, who have used them, were charged for sedition, (124-A, I.P.C.) the learned judges have held that there was nothing which could come within the purview of that section, and that the language used was metaphorical.

To support his contention, Mr. Balasubramaniam cited an authority from the A.I.R. 1930, Lahore referring to a speech made by Dr. Satyapal.

Further, Mr. Balasubramaniam said that he might have used the

words such as "battlefield etc.", in the metaphorical sense, and he thought that the Prosecution would not make much of those words.

In conclusion, Mr. Balasubramaniam said: "My submission is that the charge against me has not been substantiated, and it is not legally sustainable and I plead "not guilty."

Mr. Manickam Pillai, Prosecuting Inspector replying said that the charge against the accused with reference to the schools was that he obstructed the students. The personal right of the students is there and they have been obstructed and that clearly came within the section. As regards the picketing in front of the Premier's house, he said, the Premier had a personal right to move for the cancellation of the orders and the accused had interfered with his (Premier's) right. The accused admitted having asked the people to go and stand in front of the schools and to prostrate at the feet of the students not to learn Hindi. What is it in fact. If it is not going and hanging about there, does it not amount to loitering? Does not standing means loitering with an intent.

The accused: Standing is not loitering. Continuing, the Prosecuting Inspector said that loitering meant standing or hanging about. He next cited an authority which stated that in a case where handbills were distributed, the judges had held that it was loitering, and in this case, to say to go and prostrate at the feet of the students is certainly loitering. When a man loitered in front of a person's house, he came within the section.

The accused: Supposing a man goes about here and there distributing handbills. Distribution of handbills, requires a man who does it, to go here and there and I therefore it amounts to loitering. I submit that prostrating at the feet of the students does not at all amount to loitering. How can the Prosecution say the distribution of notices is equivalent to prostrating at the feet of the students.

The Magistrate: Your intention was not asking people to loiter or fast or offer picketing? Can you give an undertaking?

The Accused: As a matter of fact I was given the fullest freedom to speak at meetings after my arrest while I was released on bail. The undertaking that Your Honour wants me to give implies that I am guilty.

The Magistrate: I am only asking that if you can consider that aspect of the question.

Refuses To Give Undertaking

The Accused: With due deference to Your Honour, as regards the question of giving an undertaking, I am not prepared to do that. I have never committed any offence, but the Government has thought it fit to prosecute. The clove boycott was going on merrily under the auspices of the Government and they did nothing to prosecute the picketers. It is a political one. I have criticised the Congress. That is my party's business. Even if I give an undertaking, what guarantee is there that the Congress Government will not prosecute me again for imaginary breaking of the undertaking when I shall have to indulge in the criticism of the Congress, which after all is my political creed? Therefore, I submit that I have committed no offence.

Further hearing of the case stands adjourned to Monday, August, 1.

INDIAN HISTORICAL RECORDS COMMISSION

Simla, July 25.

The Government of India have been pleased to appoint Dr. Nandalal Chatterji, M.A., Ph.D., Lecturer in History, Lucknow University, as a corresponding member of the Indian Historical Records Commission for a period of three years with effect from the 13th July 1933.