

CASE AGAINST ELATHU SIVANANDA ADIGAL

ACCUSED SENTENCED TO 9 MONTHS RIGOROUS IMPRISONMENT

Madras, July 30.

In the resumed hearing of the case against Elathu Sivananda Adigal by Mr. B. Madhava Rao, Acting Third Presidency Magistrate, Egmore, Mr. Seshagiri Rao, Sub-Inspector, Crime Branch, was further cross-examined by Mr. Allah Pitchai, Counsel for the accused on Friday 22nd last. Witness stated that he seized about 42 items in all. Item No. 20, 24, 25, 27, 28, 31, 32, 33, 37, 38 and 42 were letters addressed to the accused. Only a few letters had been filed. He did not go through all the letters, but he had gone through some of the letters that had been filed.

Counsel: Have you come across any letter addressed or written to the accused by Mahatmaji or President of the All-India Congress?
Witness: I do not remember having come across any letter addressed either by Mr. Gandhi or Mr. Bose.

The Magistrate: What has that got to do with the case?

Re-examined by the Prosecuting Inspector, witness said that he did not investigate the case.

Mr. Swaminatha Sastri, Short-hand Sub-Inspector, cross-examined next, said that he observed what took place side by side, when he wrote the shorthand notes.

Counsel: So, you do two things at a time?

The Magistrate: What is the thing that you are driving at?

Counsel: In that meeting where the accused had presided, Swami Shanmugananda spoke. What Shanmugananda had spoken had been filed in the Court. Now he (Counsel) wanted to prove that in spite of the accused being the President of the meeting, he did not in any way control. What the person did or did not, you cannot say?

Witness: The meeting commenced at 6.30 p. m., and it was over by 9.30 p. m., on 18-5-38. He was seated quite close to the chairman. He also took down the speech of Swami Shanmugananda.

Q. Do you remember any person or persons who pulled down the hand of that man when he wanted to indulge in some vehement statement, say, with reference to Mrs. Rajagopalachari? He talked something vehemently and some one pulled him by the hand.

A. Yes, he was pulled back. It was not the President that pulled him.

Q. He was pulled by some one. That some one was behind the speaker? Very close?

A. Yes.

Writing and Observing at the Same Time

Q. As you were taking down shorthand notes, it was not humanly possible to observe what was taking place.

Prosecuting Inspector: It is a matter for argument.

Q. What took place between the President and the speaker from 6.30 p. m. and 9.30 p. m.?

Magistrate: Ask him questions and do not argue with him.

Prosecuting Inspector: You are simply lecturing.

Magistrate:—Let him please himself.

Mr. Kesava Menon, C. I. D. Sub-Inspector, cross examined said that the Anti-Hindi League organised public meetings. He used to see volunteers at the public meetings.

Q. You see a large number of people. You do not know who the volunteers are? Young

fellows maintaining order at meetings? How many processions and meetings have you attended?

A. Several. In processions also, I have seen volunteers.

Q. Who used to be in processions?

A. All the leaders and people doing propaganda work.

Witness continuing deposed that he had gone to the headquarters. He had seen persons who subsequently loitered.

Q. You call them volunteers?

A. Picketers, I call them loiterers.

Q. How many picketers you used to see?

A. Usually, the number will be from 15 to 20.

Q. Have you at any time seen the 20 members at public meetings?

A. I have seen some of them.

What Is a Public Meeting?

Witness proceeding, said that the Anti-Hindi Leaguers did not organise any meeting except for the purpose of appealing for funds and appealing for people.

Magistrate:—Do you want me to take it down?

Prosecuting Inspector:—Let me at least have the benefit of the answer, which my friend has elicited.

Witness:—I have attended a public meeting.

Counsel:—It was a public meeting?

Witness:—It was a meeting arranged in a public place.

Prosecuting Inspector:—In fact, all meetings were held in public places.

Counsel: Why do you fight shy of saying that it is a public meeting?

Prosecuting Inspector:—There seems to be a controversy about "public meeting" and "public place." A quarrel in words.

Counsel: The accused was "Sarvadhikari" from 4-6-38 to 11-6-38, and before him there was only one "Sarvadhikari"? There were other leaders also going in the procession?

Magistrate: That is also a pertinent question.

Prosecuting Inspector: Others have been charge-sheeted by the police, Swami Shanmugananda, Swami Arunagirinathar.

Q. When Palladam Ponnuswami sat before the house of the Premier to fast, did you notice the accused going and persuading him to give up the fast?

Witness: The accused was present.

Q. Did he go and dissuade him from doing it?

A. I did not see.

Counsel:—The accused was not in favour of Satyagraha because the Committee had not decided anything about it then.

Magistrate: Which committee?

Witness: The Anti-Hindi Committee.

Everything depends On Future

Magistrate: What is your belief for the future? Have you got any belief with regard to this satyagraha?

Counsel: The accused had not done Satyagraha.

Magistrate: If you had any belief that you are not going to take part in the proceedings in future, the whole thing goes out. Why should the police prosecute?

Prosecuting Inspector: Your Worship has been saying this so many times.

Prosecuting Inspector addressing the Counsel: Where is your answer to His Worship's question. You do not want to answer. You do not seem to have moral courage.

Counsel: My information is that the accused was suggesting things and publicly bringing pressure by lawful means. The accused till to-day did not believe in picketing before the house of the Premier, because the Committee had not decided. The other activities, such as holding public meetings, constitutionally agitating, and bringing pressure upon the Government, are all lawful. Magistrate: Perfectly.

Defence Contention

Counsel: My contention is that the accused had never asked any volunteer to go before the house of the Premier to offer satyagraha and things like that. Some misguided youngsters.....

Magistrate: We do not care about youngsters. What is your position? If you say that it is your belief that you are not going to associate yourself with this institution in future, well, the matter drops.

Counsel: The accused had on many occasions objected to the youngster picketing in front of the Premier's house.

Magistrate: Let him say that he is not going to countenance any more.

Witness, continuing his evidence, said that he had seen the accused instigating people to go and offer Satyagraha.

Q. Who are those people? Did you see with your own eyes, or did you hear the accused saying: "You must go and offer satyagraha"?

A. I have not heard him lecturing. He has said: "Every thing should go on as usual".

Q. From the expression "as usual", do you infer that this man instigated.....

A. Also from other circumstances.

Q. What are the other circumstances?

Magistrate: It is for me to decide.

Q. Is there any rule of the Anti-Hindi movement which says that people should go and offer Satyagraha?

A. Written as well as oral. There are written rules.

Q. Do not be vehement!

Pamphlet Missing

A. No. I am not emotional. You are simply making me emotional. I have filed those rules. Those rules are under the authority of the Anti-Hindi League.

The pamphlet containing the rules was searched for, but could not be found.

Witness said that they were published in the "Viduthalai" of 13th of.....

Prosecuting Inspector: Thank you for the suggestion, I will have it filed.

Magistrate: So, the rules were published in "Viduthalai".

Counsel: Except what you have discovered in "Viduthalai" you have not come across.....

Prosecuting Inspector: Then the question will arise that the document was not in possession of the accused.

Witness did not know how many speeches were made by Sivananda Adigal from 4-6-38 and 11-6-38.

Q. Did he (the accused) in any one of his speeches appeal to the people to picket before the Premier's house?

A. He enrolled volunteers.

A Plain Question

Q. I am not bothered about volunteers. I am putting you a plain question. It is a simple question. I want a simple answer. Did he appeal to people to go and offer satyagraha?

A. On 10-6-38, after a speech. Prosecuting Inspector:—One man says that volunteers must come for picketing and another man takes a pencil.

Witness said that to his knowledge the accused did not appeal to the people in any one of his speeches to go and offer Satyagraha before the house of the Premier.

Re-examined by the Prosecuting Inspector, witness did not directly open his mouth and say so.

Messrs. Karam Singh Aravamudu Iyengar and Krishna Singh were also cross-examined.

Further hearing of the case was adjourned to Tuesday July 26.

TUESDAY'S PROCEEDINGS

Hearing was resumed of the case against Elathu Sivananda Adigal by Mr. B. Madhava Rao, Third Presidency Magistrate, Egmore, on Tuesday last, (July, 26).

Inspector Arunagiri Mudaliar, Investigating Officer, was examined for the defence by Mr. J. S. Athanasius, assisted by Mr. Allah Pitchai, Counsel for the accused.

Witness deposed that he had seized a correspondence file from the possession of the accused. A letter addressed by the accused to Mr. M. K. Gandhi dated October 27, 1937 was filed in the court by the witness.

The Prosecuting Inspector intervening said: Long before other efforts were taken.

Mr. Kothandam, an Anti-Hindi volunteer convicted for picketing in front of the Premier's house, examined for the defence said: "I have taken part in the Anti-Hindi Movement and that is why, I am in jail. I went and picketed in front of the Premier's house of my own accord and free will, and not at the instigation of any one. The accused has not asked us to go and picket in front of the Premier's house. When he came from Aruppukottai, the accused dissuaded us from picketing before the house of the Premier."

Cross-examined by Mr. Manickam Pillai, Prosecuting Inspector, witness deposed that he came here on June 7th. He came along with others in a car. He came to Madras after reading from papers that Ponnuswami had undertaken to fast in front of the Premier's house. He had seen the news in "Swadesamitran".

To a question by the Prosecuting Inspector whether he used to read "Viduthalai", witness replied in the affirmative.

Q. Do you read "Kudi Arasu"? A. I do not read "Kudi Arasu", because it advocates atheism.

Continuing witness said that, after having heard that Ponnuswami was fasting before the Premier's house, he thought he could come and picket. He came with the idea not to fast but to picket in front of the Premier's house. As soon as he came to Madras, he went and saw Mr. Stalin Jagadesh in Mr. C. D. Nayagam's house. He came along with Messrs. Subramanyam, Muthuswami and Ramachandran. About six or seven of them came."

"Kali Podum Government"

At this stage, the Prosecuting Inspector told the witness that they (the prosecution) had received a report of everything that had happened.

Witness in reply said: I know that this "Kali Podum Government" (Ragging Government) gets report of the happenings.

Proceeding witness stated that they all went to the Headquarters in Venkatanarayana Road, Theyagarayanagar, near Dr. Subbarayan's house.

Magistrate: What has Dr. Subbarayan got to do with this?

Prosecuting Inspector: Dr. Subbarayan is the Education Minister. It will be remembered that in the speeches made, some had stated that they had been fortunate enough to secure a place near the Education Minister's house.

Witness, continuing his evidence, said that they (those who came with him) had their meals at the Headquarters. There were about 22 others. He asked who "Sarvadhikari" was, and told that there was no "Sarvadhikari" between 3rd and 11th June. Mr. E. V. Ramaswami Naicker of Erode asked them to take food and sit quiet. The accused was there and told them that no orders had been given by the Anti-Hindi Committee.

To a question as to who were the members of the Committee, witness replied that it consisted of Mr. Somasundara Bharati, Mr. K. A. P. Viswanatha Sivananda Adigal,.....

Magistrate: Is Mr. E. V. Ramaswami Naicker one of them?

Witness: Mr. Ramaswami Naicker is not one of them.

Prosecuting Inspector: Is Mr. C. D. Nayagam one of them?

Witness:—Yes.

Magistrate: What is this committee for? To banish Hindi from Tamil Nad?

"Picketing, Contrary To Law"

The accused, continued the witness, asked them wherefrom they came and the purpose that brought them. Witness had come to Madras about seven or eight times. The accused asked them to remain till the 17th June to board and lodge there, till the case against Ponnuswami, C. D. Nayagam and others was over. They (witness and others) told him: We won't remain quiet. We would go and picket in front of the Premier's house, and others will follow us. We won't be keeping quiet here eating food."

On the day, the witness proceeded, on which we came, the accused said that picketing in front of the Premier's house was contrary to the law. I said that it was not contrary to the law. The Congress Government has allowed Zanzibar clove boycott. We are not going to obstruct the Premier, and there is nothing wrong in doing anything. I went and picketed on the same day. I took Subramanyam, another volunteer, with me.

Prosecuting Inspector: Why did you not go in batches of seven?

"The Whole Thing Would Be Out"

Witness: We only wanted to go and picket in batches of two in the manner of sentry duty. (Laughter).

Witness continuing stated that some of those who came with him had gone to their places, and the rest came to jail. The day after he went to jail, two others came in.

The Prosecuting Inspector asked the witness whether he had read an article entitled "Veera Tamilargale" in "Viduthalai".

Witness: I have not read that article.

Magistrate: So long, they have kept quiet speaking nothing about the organisation. The whole thing will be out, if you put them in the witness box.

The Prosecuting Inspector next read a letter addressed by the accused to Mr. Gandhi referring to the fast undertaken by Mr. Ponnuswami and the enrolment of a thousand volunteers.

The defence case was over, and the Magistrate adjourned the case for further hearing to next day.

WEDNESDAY'S PROCEEDINGS

The Case For The Defence

Mr. Allah Pitchai (Counsel for the accused) advancing arguments at the resumed hearing of the case against Elathu Sivananda Adigal on Wednesday last (July 27) before Mr. B. Madhava Rao, Acting Third Presidency Magistrate, Egmore, said that the accused had been charged under Sec. 71-A. Criminal Law Amendment Act and also under Sec. 117, I. P. C. (abatement). The accused was not charged for conspiracy. The Prosecution had to prove first that there was conspiracy, if there was one, or two or more persons, and that there was reasonable ground for the Court to believe it. The Prosecution had filed certain documents, to which he (Counsel) had objected on the ground, that they could not be admitted in the case, because there had been no charge against the accused for conspiracy. Some of the letters, counsel submitted, which were alleged to have been written to the accused by some persons and some written by the accused to some other persons, had been filed. Such things might be applicable to a conspiracy case. But the sections with which the accused was charged had nothing to do with conspiracy of any kind.

As for Sec. 117 I. P. C. (abatement) the prosecution did not think of any evidence except the evidence completed under Sec. 71-A Criminal Law Amendment Act. The case against the accused was that he abetted a group of ten or more persons to commit an offence. The prosecution had shown nothing particular except that some speech was delivered at a meeting presided over by the accused. On the other hand, there was evidence to prove that some one by the side of the accused pulled up one of the speakers. The Magistrate, counsel said, should consider that aspect of the question. As regards the accused instigating one Ponnuswami to offer satyagraha before the Premier's house there was no evidence let in by the prosecution to that effect. There was a suggestion made at the time of cross-examination that the accused had in fact dissuaded some persons from offering satyagraha in front of the Premier's house. Further, the accused, in a statement to the Court, categorically denied having instigated any person to go and offer satyagraha in front of the Premier's house, since he (the accused) had no belief in it. The committee had not, at that time decided anything.

Magistrate:—Can you give any undertaking to that effect? In the past you have not done it. In future, you would not do it.

Counsel:—I may do it or not. Counsel concluded by saying that these were the observations which he wished to submit for His Worships' consideration.

Further hearing of the case was adjourned to Thursday.

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Magistrate:—Can you give any undertaking to that effect? In the past you have not done it. In future, you would not do it.

Counsel:—I may do it or not. Counsel concluded by saying that these were the observations which he wished to submit for His Worships' consideration.

Further hearing of the case was adjourned to Thursday.

THURSDAY'S PROCEEDINGS

Orders were passed on Thursday morning (July 28), by Mr. B. Madhava Rao, Acting Third Presidency Magistrate, sentencing Elathu Sivananda Adigal under Sec. 117 I. P. C., to undergo rigorous imprisonment for nine months for each offence, the sentences to run concurrently.

Passing the orders, the Magistrate observed "inter alia":—"The accused has paid a license fee of Rs. 15 to the Municipality for obtaining license for the erection of the shed for one year in Mambalam. He has been the "Sarvadhikari" or dictator from 4-6-38 to 11-6-38 of the camp from which volunteers are sent out to picket and loiter in front of the Premier's house, and on his arrest he has asked his successor, Swami Arunagirinathar to carry on the activities in the camp as usual.

The only object of the Anti-Hindi League has been to send volunteers to loiter in front of the Premier's house and coerce him to cancel the orders, introducing Hindi. The accused was asking for volunteers to be enrolled for this cause and told the audience that for the sake of preserving Tamil and banishing Hindi, 25 youths had already gone to Jail, and a youth was struggling for existence. It is also clear that the accused was actively assisting in the enrolment of volunteers and his instigating the public to enrol volunteers.

Referring to the evidence of the defence witness, the Magistrate said: The witness was evidently trying to save the skin of the accused by giving a false account of what happened.

The accused has issued appeal after appeal for volunteers and published in the papers that they were to offer "Satyagraha" and also appealed for funds.

The accused has been looking after the boarding and lodging of the volunteers. These volunteers are sent from the camp to loiter and it is impossible to believe that they were going of their own accord and in spite of the dissuasion of the accused. The statement of the accused that his Committee have not decided between 4th and 11th June to offer satyagraha in front of the Premier's house does not appear to be correct.

His plea that the volunteers in their discretion offered "satyagraha" cannot, in the face of the documentary evidence, be adduced, to be accepted as correct.

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CASE AGAINST ELATHU SIVANANDA ADIGAL

(Continued from page 5)

The accused has taken a prominent post in the campaign for getting volunteers to loiter in front of the Premiers house knowing that such loitering was contrary to law.

He is found "guilty" under Sec. 117, I. P. C., and is sentenced to undergo 9 months rigorous imprisonment for each offence, the sentences to run concurrently.

Mr. Allan Pitchai assisted by Mr. Athanasius and Mr. P. P. Selvaraj appeared for the accused.

Mr. C. Manickam Pillai, assisted by Mr. Arunagiri Mudaliar, conducted the prosecution.