

K.T.M.S. Mohd. and Another v. Union of India

Criminal Appeal No. 631 of 1990 / Criminal Appeal No. 632 of 1990

[1992] 2 SCR 879 | 1992-04-28

Whether these convictions for perjury, alleged conspiracy and section 277 false statements could stand on the treatment of retracted Enforcement statements, the final Tribunal ownership finding, and the evidence and joint trial concerning the third appellant.

277: prosecution for false statement in verification or accompanying statement, including alleged conspiracy | 69A: final Tribunal finding that the first appellant was not owner; relevance to criminal case, not a fresh Supreme Court assessment | 136: invoked in the appellants' argument on judicial-proceeding character

Two-judge bench | S. Ratnavel Pandian, J. | M. Fathima Beevi, J.

Assessment years: 1967-68

Historical acquittal; distinct tax, evidence and criminal questions

All three appellants were acquitted, but neither retraction nor a favourable tax order automatically ends a prosecution. The Court preserved independent criminal adjudication; the third appellant also succeeded because unsupported conspiracy and prejudicial misjoinder tainted his trial. Vinod Solanki later expressly addressed the Department's initial voluntariness burden. Preserve the source's FERA/1966 temporal anomaly and printed inconsistencies. Comprehensive later treatment and current statutory mapping remain unverified.

01 FACTS OF THE CASE

Two connected criminal appeals concerned three convicted appellants. The Enforcement Directorate raided the first appellant's premises on 19 October 1966 and seized Rs 4,28,713. The prosecution narrative and recorded statements concerned an alleged Rs 6 lakh receipt for disbursement on another person's instructions. The first two appellants' statements, Exhs. P39 and P40, were retracted through their advocate the next day as involuntary and obtained by force or threats. They later denied the earlier account before income-tax authorities. The source's description of an illegal disbursement is prosecution background, not a surviving criminal finding by the Supreme Court (physical pages 10–12 and 16–17).

The third appellant, Amanullah Quareshi, separately claimed the seized money, referring to family money and proceeds of his mother's jewels. Following notices, he filed a return for AY 1967-68 with an explanation. The tax authorities rejected that explanation. The complaint alleged fabricated evidence, false statements and a common conspiracy; those accusations must not be restated as established guilt. Accused No. 4 died during proceedings and accused No. 5 was acquitted below (physical pages 11–13, 16–17 and 28–30).

The ITO assessed Rs 6 lakh as the first appellant's undisclosed income. The Tribunal first remitted the assessment and then, on 12 May 1980, held that he was only a distributor of another person's money, not its owner, and that section 69A did not apply. That finding became final. Meanwhile, all three appellants were convicted under IPC section 193 and on conspiracy charges under IPC section 120-B read with IPC section 193 and section 277 of the Income-tax Act. The first and third appellants were also convicted under section 277 simpliciter. Each received imprisonment until the rising of the court, with total fines of Rs 2,000, Rs 600 and Rs 1,500 respectively. Their appeals and High Court revisions failed. These were criminal appeals against those convictions, not fresh assessment appeals (physical pages 12–14 and 25–26).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court treated P39 and P40 as recorded under FERA section 39: the contrary statutory premise had not been established. It distinguished section 40, requiring a gazetted Enforcement officer and containing a judicial-proceeding fiction, from section 39, which contained no equivalent fiction. Income-tax proceedings could not confer that character retrospectively on a statement recorded in a different statutory proceeding. The income-tax complainant could not assume the Enforcement authority's position and prosecute the next-day retraction as though it supplied the necessary perjury foundation (physical pages 17–20 and 23–25).

Voluntariness had to be examined before relying on an inculpatory statement. Retraction alone did not prove coercion; the judgment said that the maker alleging improper means had to establish the allegation. But that observation did not release the authority from considering the retraction and rejecting it in writing before treating the earlier statement as voluntary. It could not rely on the inculpatory part while ignoring its repudiation. Here, even on the alternative assumption that section 40 applied, the record did not show the required consideration of voluntariness, intentional falsehood and expediency. The ITO had disregarded the immediate retraction. Merely inconsistent statements were insufficient by themselves to justify perjury prosecution. The section 340 discussion was expressly used to illustrate necessary care, not to pronounce a universal procedural ruling about every income-tax prosecution (physical pages 19–24).

On section 277, the Court expressly adopted Jayappan's distinction: the criminal court decides independently on its evidence, while giving due regard to a tax decision bearing on the issue. Pending assessment proceedings neither universally bar prosecution nor require indefinite adjournment. In this case the final Tribunal finding rejected the prosecution's specific foundation that the first appellant owned the Rs 6 lakh; that justified setting aside the first appellant's substantive section 277 conviction and the first two appellants' related conspiracy convictions (physical pages 25–28).

The third appellant required separate analysis. There was no adequate allegation or direct or circumstantial evidence connecting his acts to a common conspiracy with the first two. Relationship and his ownership claim were insufficient. Filing a return in response to a notice would not itself excuse a proved false statement. However, Revenue's own case was that the money was not his, so its theory supplied no evasion of his tax liability. Independently, trying him jointly on the unsupported conspiracy theory caused an actual failure of justice: the lower courts had combined distinct allegations as one transaction. The misjoinder was substantive prejudice on these facts, not merely a technical irregularity (physical pages 28–31).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

Both criminal appeals were allowed. The convictions and sentences affirmed by the High Court were set aside, all three appellants were acquitted of every charge, and fines already paid were directed to be refunded. No retrial was ordered. Having allowed the appeals on the discussed legal grounds, the Court did not decide the remaining grounds, including the separately raised limitation objection. No separate costs order is stated (physical page 31).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: All three accused-appellants

Criminal Appeal Nos. 631 and 632 of 1990 allowed; convictions and sentences set aside; acquittal on all charges; paid fines refundable

Final criminal acquittal on the stated statutory, evidentiary and prejudicial-misjoinder grounds

No general automatic acquittal following retraction or a favourable tax order; no determination that the third appellant owned the money; no fresh assessment, blanket exclusion of Enforcement material, or decision on every ground raised.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Keep four questions separate: who owned the money for assessment, whether an inculpatory statement was voluntary and reliable, whether the charged falsehood and conspiracy were established, and whether the criminal procedure was lawful. The final ownership finding removed this prosecution's specific tax foundation; it did not make the tax tribunal a criminal court or make every tax success dispositive of criminal guilt. Likewise, an acquittal of the third appellant does not validate his rejected ownership claim.

The retraction analysis must retain both sides of the reasoning: retraction is not automatic exclusion, and it cannot simply be ignored. A bounded later check of *Vinod Solanki v. Union of India*, decided 18 December 2008, is particularly important: paragraphs 24–25 quote Mohd. but place the initial burden of proving voluntariness on the Department; paragraphs 34–37 reject treating proof of coercion as solely the proceedee's burden and require attention to surrounding circumstances and the retraction. This is a limited verified later discussion, not a comprehensive later-treatment certification.

Use this as a historical tax-prosecution authority. The source labels FERA 1973 while repeatedly dating the statements to 1966, and contains other printed name, date and amount inconsistencies. Do not silently turn those references into a validated temporal application of the later statute. The operative tax provision, criminal procedure, evidence law and subsequent decisions require fresh examination for any new matter; no mapping to the 2025 tax statute is supplied.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and connected appeals

Source url: [Open cited source](#)

Pdf pages: 1; 9; 10

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Prosecution narrative, retractions and third appellant return

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13; 16; 17

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Statutory character of statements and voluntariness

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19; 20; 21

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Perjury caution, alternative ground and ignored immediate retraction

Source url: [Open cited source](#)

Pdf pages: 22; 23; 24; 25

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Final Tribunal ownership finding and independent criminal adjudication

Source url: [Open cited source](#)

Pdf pages: 25; 26; 27; 28

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Third appellant: unsupported conspiracy and prejudicial joint trial

Source url: [Open cited source](#)

Pdf pages: 28; 29; 30; 31

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Acquittal, fine refund and undecided other grounds

Source url: [Open cited source](#)

Pdf pages: 31

Paragraphs: Unnumbered judicial text

Source role: judicial text

8.

Topic: Bounded later discussion: initial burden, retraction and reasons

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19; 22; 23; 24

Paragraphs: 24–25 and 34–37

Source role: later judgment bounded check

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. Ratnavel Pandian, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961; historical criminal and foreign-exchange procedure

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Status: verified bounded passages only

Case: Vinod Solanki v. Union of India and Another

Decision date: 2008-12-18

Case number: Civil Appeal No. 7407 of 2008

Source asset id: 2008_17_1070_1095

Source url: [Open cited source](#)

Pdf pages: 16; 17; 18; 19; 22; 23; 24

Paragraphs: 22–26 and 33–37, plus the opening of paragraph 38; particularly 24–25 and 34–37

Finding: Expressly quotes Mohd. on considering retraction, then places the initial voluntariness burden on the Department and rejects placing proof of coercion solely on the proceedee; circumstances and reasons for rejection matter. This is a later FERA discussion, not a new income-tax holding.

Limit: Only the named passages and source cover checked; neither complete later judgment nor comprehensive treatment/current-law status certified.

ASSESSMENT-YEAR SCOPE AND LIMITS OF THE OPERATIVE DIRECTION

Expressly identified for Amanullah Quareshi's return and notices; the first appellant's disputed assessment year is not separately stated in this source and is not inferred from the 1966 seizure.

OTHER PROVISIONS AND THEIR DISTINCT SCOPE

Indian Penal Code, 1860, sections 120-B and 193; section 228 discussed with judicial-proceeding fiction; FERA sections 39 and 40, as expressly discussed in the judgment; headnote labels the 1973 Act despite the 1966 recording dates; Indian Evidence Act, 1872, section 24: voluntariness; Code of Criminal Procedure, 1973, sections 195 and 340: caution and expediency of perjury prosecution; section 340 discussion expressly illustrative; CrPC section 309 in the quoted Jayappan passage; section 468 limitation contention raised but not decided; Section 223 CrPC appears in the editorial headnote; judicial text reasons about prejudicial misjoinder without expressly citing that number

APPEAL GROUPING AND SOURCE LIMITS

631/1990: K.T.S. Mohammed and M. Jamal Mohammed, the first and second appellants in the body

632/1990: Amanullah Quareshi, the third appellant

Common origin: Madras High Court Criminal Revision Cases 229 and 239 of 1981; lower appeals 221 and 222 of 1980; prosecution C.C. 356 of 1977

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 31 PDF pages; SHA-256

ed2ebc827215aa5b50c69ed6138e5cf21cb62fa0523c25e97dcbc9fe256f9d2e. Original bytes preserved.

Entire unnumbered judgment physical pages 10–31 / SCR 888–909. Cover and editorial headnote pages 1–9 read for identity only; no adjoining judgment. Statutory and earlier-case quotations separately attributed.

Open cited source rendition

The cover spells the lead party K.T.M.S. Mohd.; the opening body uses K.T.S. Mohammed and later K.T.M.D. Mohammed. The title follows the cover and the case group follows the opening identification without pretending the variants are resolved.; The scanned cover clearly says 28 April 1992; corpus OCR reads 19112. Image controls.; The editorial headnote labels FERA 1973 and the body discusses sections 39/40, while the raid and recordings repeatedly bear 19 October 1966. The statutory-temporal anomaly is retained and not silently resolved or treated as authority for retrospective application.; Rs 4,28,713 is the recurrent seized amount; printed body variants include Rs 4,28,718 on page 11 and Rs 4,28,712 on page 28. Rs 6 lakh is the alleged total receipt assessed, not the seized balance or a quantified tax liability.; Page 11 identifies the third appellant's claim letter as 4 November 1966 followed by a statement on 22 December; page 29 describes a later claim letter dated 22 December. The note does not invent a reconciled chronology or rest the conspiracy analysis on that discrepancy.; Page 16 ambiguously gives both 1 March and 27 February 1967 around the third appellant's return. No exact filing date is asserted.; The Tribunal quotation on page 26 identifies section 69A. Page 27 prints section 69(a); that typographical form is not treated as a different operative provision.; Some page 31 phrases combine sections 193 and 277 as though both belonged to the Income-tax Act. Section 193 is the IPC charge throughout the judgment; the note keeps the statutes distinct.; Vinod Solanki's cover prints volume 16 while running headers and the corpus identifier use volume 17. This bounded check is identified by title, date, case number and physical pages, without silently reconciling the volume mismatch.

STATUTORY SCOPE

Historical statutory provisions only. No automatic mapping to present criminal/evidence law or the Income-tax Act, 2025 and no current-law certification.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent treatment is not verified. The bounded primary-source checks below are separately identified; they are not an exhaustive citator or an assertion that the judgment is currently good law.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 31

SHA-256: ed2ebc827215aa5b50c69ed6138e5cf21cb62fa0523c25e97dcbc9fe256f9d2e

later judgment bounded check - PDF pages: 26

SHA-256: 917cd704aa6b98036b0c5278e73d8dbf02487b60c81d257377c76e5823cdcb3b

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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