

1966 Present : Sirimane, J.

G. D. YASAPALA and another, Petitioners, and **A. K. MUNASINGHE**,
Respondent

Election Petition No. 11 of 1965-Electoral District No. 32 (Agalawatta)

Election petition-Evidence-Statements made to police officers by witnesses-Admissibility-Application for certified copies-Power of election Court to allow such application-Civil Courts (Special Provisions) Act No. 43 of 1961, s.2-Ceylon (Parliamentary Elections) Order in Council (Cap. 381), s. 78 (A) (3).

Section 78 (A) (3) of the Ceylon (Parliamentary Elections) Order in Council, read with section 2 of the Civil Courts (Special Provisions) Act No. 43 of 1961, entitles a party to an election petition to obtain certified copies of statements made by witnesses to police officers in the course of their investigations.

ELECTION Petition No. 11 of 1965-Electoral District No. 32 (Agalawatta).

P. Navaratnarajah, Q.C., with J. W. Subasinghe, S. G. Crossette-Thambiah, J.E. P. Deraniyagala, R. N. Hapugala and Miss Barr Kumarakulasinghe, for the Petitioners.

K. Shinya, with Nimal Senanayake, Stanley Tillekeratne, Tudor Siriwardene and Vernon Gunaratne, for the Respondent.

L. B. T. Premaratne, Senior Crown Counsel, as amicus curiae.

May 9, 1966. **SIRIMANE, J.-**

The respondent has made an application for certified copies of statements made to the police by some of the witnesses listed to testify against him in regard to alleged acts of intimidation etc. These statements are needed for the purpose of cross-examination and would undoubtedly be of assistance to Court in assessing the evidence of the witnesses.

The police are apparently very reluctant to grant these copies.

Personally I look upon with disfavour any attempt to hide or keep secret statements made to the police in the course of their investigations. Unless the law very clearly prohibits it, there is no good reason for withholding such statements.

Is there any legal objection to the issue of these statements ? I think not.

Under Section 2 of the Civil Courts (Special Provisions) Act No. 43 of 1961 a party to any proceedings in a Civil Court is undoubtedly entitled to obtain such certified copies on payment of the charges specified in the schedule to the Act. Civil Court in this Act has the same meaning as

in the Civil Procedure Code, where, a Civil Court means a Court in which a Civil action may be filed. (Section 5.)

The District Court is therefore a Civil Court.

Section 78 (A) (3) of the Ceylon (Parliamentary Elections) Order in Council-Chapter 381- provides that, for the purpose of summoning or compelling the attendance of a witness, an Election Judge shall have the same powers, jurisdiction, and authority as are possessed and exercised by a judge of a District Court in the trial of a Civil action.

There is, of course, no specific reference to the provisions of Act No. 43 ' of 1961. But, on a consideration of the two Sections referred to above, I am of the view that in matters relating to the summoning of witnesses and the admissibility of evidence the law applicable to Civil Trials before a District Court should be followed in an Election Court, rather than the provisions of the Criminal Procedure Code.

The application for certified copies made by the respondent is allowed.

***Respondent's application for certified
copies of certain documents allowed.***

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