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is very much different from scaling down the amount thus found. If the special Court were to scale down this amount, it would be acting contrary to the provisions of s. 3. After all, the scheme of the Act is to ascertain the total debts due by the debtor and to scale them down in the light of his total paying capacity. Now, in finding the total debts, obviously the special debts have got to be taken into account. If that is so, before these special debts are taken into account, it is clearly necessary that the special Court, whose function it is to take them into account, must have jurisdiction to decide the exact amount due in that behalf. We, therefore, think that the learned Judge was right in coming to the conclusion that the present suit must be transferred to the Court administering the special Act.

The result is that the application fails and the rule is discharged with costs.

Rule discharged.

M. W. P.

APPELLATE CRIMINAL

FULL BENCH

Before Mr. Justice M. C. Chagla, Chief Justice, Mr. Justice Gajendragadkar and Mr. Justice Shah.

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Nov. 26

RAMA SHIDAPPA THORALI *v.* STATE.*

Indian Evidence Act (I of 1872), s. 27—Indian Penal Code (Act XLV of 1860), ss. 395, 411—Offence of dacoity—Statement made by accused to police officer that he has concealed certain articles in particular place—Consequent discovery of articles—Whether words in statement regarding authorship of concealment admissible in evidence.

When a statement made by an accused person while in custody of a police officer is tendered into evidence under the provisions of s. 27 of the Indian Evidence Act, 1872, on the ground that an article which is concealed and the accused's knowledge of its whereabouts are discovered in consequence of the statement, the words included in the statement with regard to the authorship of concealment are admissible in evidence. The statement leads to the discovery not only of the fact that the article is concealed in a particular place, but also to the discovery that the article is concealed in that place to the knowledge of the

* Criminal Appeal No. 735 of 1951.

accused, and if knowledge of the accused is a relevant fact which is discovered by reason of the statement, then the portion of the statement which directly relates to that knowledge, viz. that the accused has concealed the article, is admissible under the section.

Kottaya v. *Emperor*,[1] followed.

Queen Empress v. *Nana*,[2] *Emperor* v. *Namdeo Kaikadi*,[3] and *State* v. *Pandurang Dagdu*,[4] approved.

State v. *Rangrao Dnyanu*,[5] and *State* v. *Kalekhan Salemahomedkhan*,[6] overruled.

Section 27 of the Indian Evidence Act, 1872, is an exception to the general principle with regard to confessions embodied in ss. 25 and 26 of the Act, and according to the ordinary canon of construction it must be strictly construed. Before the section can come into play, there must be a fact discovered and the fact must be discovered in consequence of some information received from an accused person. It lays down a further qualification that the whole of the statement made by the accused in consequence of which the fact is discovered is not admissible. Only so much of the statement is admissible as relates distinctly to the fact discovered. Therefore, once a relevant fact is discovered by reason of a statement made by the accused to a police officer, the Court must scrutinise the statement in order to find out which portion of that statement bears a distinct relationship to the discovery of the fact. Any relationship to the fact is not sufficient. The Legislature has emphasised that the relationship must be distinct; it must be unmistakable and unequivocal.

In considering the relationship which a portion of a statement bears to the discovery of the fact, information as to past user or the past history of the object produced is not related to its discovery in the setting in which it is discovered. Therefore, one has to look at the setting in which an object is discovered and the portion of the statement which is to be admitted is to be strictly confined to the knowledge of the accused with regard to the particular setting in which the object was discovered.

The authority of the Full Bench decision in *Queen Empress* v. *Nana*[2] has not in any way been impaired by the Privy Council ruling in *Kottaya* v. *Emperor*.[1]

CRIMINAL APPEAL from the order of conviction and sentence passed by V. R. Papalkar, Esq., Additional Sessions Judge at Belgaum.

[1] (1946) 49 Bom. L. R. 508 (P. C.).
[2] (1889) 14 Bom. 260 (F. B.).
[3] (1944) 46 Bom. L. R. 546.
[4] Criminal Appeals Nos. 403 and 404 of 1951, decided by Rajadhyaksha and Dixit JJ., on August 6, 1951 (Unrep.).
[5] (1951) 53 Bom. L. R. 834.
[6] Confirmation Case No. 13 of 1950 decided by Bavdekar and Dixit JJ., on Jan. 21, 1951 (Unrep.).

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Bavdekar J.

A dacoity took place at the house of one Chandravva (complainant) at Mastmardi in Belgaum district on the night of June 14, 1950.

Upon investigation by the police nine persons (accused) were arrested and property produced by them was attached. All of them were later on tried with the aid of a jury by the Additional Sessions Judge at Belgaum for having committed an offence under s. 395 and in the alternative under s. 411 of the Indian Penal Code.

The jury by a unanimous verdict held all the accused not guilty of offence under s. 395. By unanimous verdict they held accused Nos. 1, 2, 3, 4 and 9 not guilty of offence punishable under s. 411 but they brought in a verdict of guilty by 3 to 2 against accused Nos. 5, 6, 7 and 8 under s. 411 of the Indian Penal Code.

The only evidence against the last mentioned four accused was a certain statement made by them to the police officer investigating the case. The statements made by these accused were as follows:—

Accused No. 5—".....he would show the place where he had concealed one Bogani, one small Kolag and a Jamb in a dunghill."

Accused No. 6—".....he would produce a trunk which he had concealed in a dunghill of Berads."

Accused No. 7—".....he would produce a pair of copper Ghagars which he had kept concealed in the Ketki garden in the brook in the Shindolli limits."

Accused No. 8—".....he would show two copper Ghagars and one brass Tapeli which he had concealed in the Ketki garden in the limits of Basarikatti."

The learned Judge accepted the verdict of the jury and convicted the accused Nos. 5, 6, 7 and 8 under s. 411 and sentenced each of them to suffer three years' rigorous imprisonment.

The accused Nos. 5, 6, 7 and 8 appealed to the High Court against the order of conviction and sentence. In appeal it was contended that the aforesaid statements were not admissible in evidence under s. 27 of the Indian Evidence Act, 1872. The appeal was heard by a bench consisting of Bavdekar and Chainani JJ., on September 25, 1951, when their Lordships delivered the following judgment referring the matter to a Full Bench:

BAVDEKAR J. The appellants have been convicted by the learned Additional Sessions Judge, Belgaum, of an offence

under s. 411 of the Indian Penal Code and have been sentenced to rigorous imprisonment for a period of three years.

The trial was by a jury and the jury by a majority of 3 to 2 found the appellants guilty of the offence. The principal point, which has been made against the conviction of the appellants, is the admissibility of statements made by all the appellants to the effect that they themselves had hidden the property. In the case of accused No. 5 none of the property was found in his house. But he had made a statement stating that he had hidden a trunk in a dunghill of Berads. Mr. Mandgi who appears on behalf of the appellants says that the words forming part of the statements of the accused persons which attributed to them the authorship of the concealment are not admissible in evidence. In support of this contention he refers to our decisions in the case of *State* v. *Dnyanu.*[1] We took that view following the ruling of the Privy Council case of *Kottaya* v. *Emperor.*[2] This view has also been taken by another division bench of this Court to which I was a party in *State* v. *Kalekhan Sale Mahomed Khan.*[3] The contrary view has, however, been taken by another division bench in *State* v. *Pandurang Dagadu.*[4] They also relied in support of their decision upon the Privy Council case of *Kottaya* v. *Emperor.*[2] In these circumstances, in our view, it is proper to refer to a full bench the following question:—

When a statement made by an accused person while in custody of a police officer is tendered into evidence under the provisions of s. 27 of the Indian Evidence Act on the ground that an article which is concealed and the accused's knowledge of its whereabouts are discovered in consequence of the statement, are words included in the statement with regard to the authorship of concealment, for example, "I have concealed", "I have hidden", or "I have kept", admissible in evidence or not?

The reference was heard by a Full Bench consisting of Chagla C. J. and Gajendragadkar and Shah JJ. on November 26, 1951.

A. A. Mandgi, for the accused.

H. M. Choksi, Government Pleader, for the State.

[1] (1951) 53 Bom. L. R. 834.

[2] (1946) 49 Bom. L. R. 508 P. C.

[3] (1951) Confirmation Case No. 13 of 1950. (With App. No. 688 of 1950), decided by Bavdekar and Dixit JJ., on Jan. 21, 1951, (Unrep.).

[4] (1951) Cri. Appls. Nos. 403 and 404 of 1951, decided by Rajadhyaksha and Dixit JJ., on Aug. 6, 1951 (unrep.).

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A. A. Mandgi. S. 27 of the Evidence Act provides an exception to the general rule contained in s. 26 that a confession made by an accused person to a police officer is not admissible. As such the section must be strictly construed. What the section allows to be proved is only that part of the accused's statement as relates distinctly to the fact thereby discovered. It may be noted in the first instance that relation of the information given by the accused to the fact discovered must be distinct and unequivocal. The information given by the accused in the present case is that they have concealed certain property in a certain place. The fact of the property being concealed in a certain place is the fact discovered and any information relating to that fact is relevant. But the information as to who concealed the property is not material, because it does not relate to the fact discovered. It is not that every information with respect to the finding of the property is admissible in evidence. Even more important is the word "discovered." This word has been used in a peculiar sense. The fact discovered must be discovered in the sense that the proof of the existence of that fact no longer rests on the credibility of the accused's statement but rests on the credibility of the witnesses who depose to the existence of that fact. I adopt the reasoning set out in *Karam Din* v. *Emperor* [A. I. R. 1929 Lah. 338 at 341]. No doubt *Queen Empress* v. *Nana* [(1889) 14 Bom. 260 (F. B.)] is against me but the authority of that ruling has been shaken by the Privy Council decision in *Kottaya* v. *Emperor* [(1946) 74 I. A. 65]. Fact discovered in this case is the place from which the property is produced. The information as to how the accused knew about that place is immaterial.

[C. J. But the Privy Council have laid down that the fact discovered embraces the place from which the object is produced as well as the knowledge of the accused as to it.].

I submit that the knowledge they refer to is the knowledge of the place and not the subjective knowledge as to who concealed the object in that place.

[Shah J. How can you dissociate knowledge about fact of concealment from knowledge as to who did it?].

Knowledge about the place only is relevant and not the knowledge about the fact of concealment. Therefore, the information as to who concealed the object does not relate to the fact discovered, viz., the accused's knowledge of the place. The

discovery would have been made even without the statement of the accused that he concealed the property in that place. The discovery is made because the accused knows the place where the property has been concealed. The source of the knowledge, i. e., as to how the accused came to know of the place is inadmissible because it amounts to a confession, and there is no guarantee that that part of the statement is true or is made without any pressure from the police.

[Shah J. We are concerned here with admissibility of the statement and not with its evidentiary value.].

Ordinarily every confession before the police is inadmissible and there should be no different rule for the statements in question. When a man says that he knows the place of concealment and he points it out there is immediate corroboration for his statement. But what corroboration is there when he says that he knows the place because he himself has concealed the object there? Knowledge does not include nature of knowledge. Discovery is made not because of knowledge of fact of concealment but because of knowledge of the place where the property is concealed.

In *Emperor* v. *Namdeo Kaikadi* [(1944) 46 Bom. L. R. 546] a statement by the accused saying, "I put a bomb in R.'s office; I will show it to you" was held admissible. In *Emperor* v. *Chavadappa Pujari* [(1944) 47 Bom. L. R. 63] the present point was not in issue. *Emperor* v. *Mareppa Ningappa* [(1945) 48 Bom. L. R. 542] is in my favour. In that case out of the statement, "I have stolen the amount and I will produce it", only the latter part was admitted.

The Privy Council case was explained and followed by our Court in *State* v. *Rangrao Dnyanu* [(1951) 53 Bom. L. R. 834]. In that case the statement of the accused was that he had kept a bomb in his friend's cattleshed and that he would take it out. The only portion that was admitted was that the bomb was kept in the cattleshed and that the accused would take it out.

The cases of the other Courts before the Privy Council case are:—

Emperor v. *Chokhey* [I. L. R. (1937) All. 710]; *Sukhan* v. *The Crown* [(1929) 10 Lah. 283 (F. B.)]; *Sonaram Mahton* v. *King-Emperor* [(1930) 10 Pat. 153]; *Amiruddin Ahmed* v. *Emperor* [(1917) 45 Cal. 557]; *Satish Chandra Seal* v. *Emperor* [I. L. R. (1944) 2 Cal. 76]; and *Mangal Singh* v. *King Emperor* [I. L. R. (1948) Nag. 57].

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The Allahabad and Madras High Courts have construed the Privy Council case against the view submitted by me. See *Mohd. Ilyas* v. *The State* [A. I. R. 1950 All. 615] and In re *Vellingri* [A. I. R. 1950 Mad. 613].

H. M. Choksi, was not called upon in reply.

CHAGLA C. J. Nine accused were tried by the Additional Sessions Judge, Belgaum, with a jury, for having committed an offence under s. 395 and in the alternative under s. 411 of the Indian Penal Code. The jury brought in a verdict of guilty by 3 to 2 against accused Nos. 5, 6, 7 and 8 under s. 411 and they brought in a verdict of not guilty against the other accused. The Additional Sessions Judge accepted the verdict of the jury and with regard to the four accused Nos. 5, 6, 7 and 8 convicted and sentenced them. An appeal was preferred by these four accused and the appeal came for hearing before Mr. Justice Bavdekar and Mr. Justice Chainani. The only evidence against these four accused was a certain statement made by them to the police-officer, and the question that arose before the Court of appeal was whether this statement was admissible under s. 27 of the Indian Evidence Act. These two learned Judges have referred the matter to a full bench as there were conflicting decisions of this Court on this point.

Now, the statements made by these accused were these: With regard to accused No. 5 the statement was that "he would show the place where he had concealed one Bogani and one small Kolag and Jamb in a dung-hill." With regard to accused No. 6 the statement was that "he would produce a trunk which he had concealed in a dung-hill of Berads." With regard to accused No. 7 the statement was that "he would produce a pair of copper Ghaggars which he had kept concealed in Ketki garden in the brook in the Shindolli limits." With regard to accused No. 8 the statement was that "he would show two copper Ghaggars and one brass Tapeli which he had concealed in the Ketki garden." The division bench that referred this matter to the full bench felt doubts as to whether these statements, to the extent that they attributed the authorship of the concealment to the accused, were admissible under s. 27, and the question that arises for the determination of this full bench is whether the statements of these four accused persons, when they stated that they had concealed various articles in certain

places, are admissible when those articles have been in fact discovered in those places. As has been often pointed out, s. 27 is an exception to the general principle with regard to confessions embodied in ss. 25 and 26 of the Evidence Act. Those two sections make a confession made to a police-officer or by a person while in custody of a police-officer, unless it is made in immediate presence of a Magistrate, inadmissible, and according to the ordinary canon of construction the proviso embodied in s. 27 must be strictly construed. It must not be so construed as to make ss. 25 and 26 in their operation nugatory. S. 27 is in the following terms:—

"Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved."

Therefore, before s. 27 can come into play, there must be a fact discovered and the fact must be discovered in consequence of some information received from an accused person. Section 27 lays down a further qualification that the whole of the statement made by the accused in consequence of which the fact is discovered is not admissible. Only so much of the statement is admissible as relates distinctly to the fact discovered Therefore, once a relevant fact is discovered by reason of a statement made by the accused to a police-officer, the Court must scrutinise the statement in order to find out which portion of that statement bears a distinct relationship to the discovery of the fact. Any relationship to the fact is not sufficient. The Legislature has emphasised that the relationship must be distinct; it must be unmistakable and unequivocal.

This section came up for consideration before the Privy Council in a recent decision reported in *Kottaya* v. *Emperor*,[1] and the Privy Council has emphasised one aspect of the matter which was apt to be overlooked before this decision was given. The Privy Council points out that the fact discovered referred to in s. 27 embraces the place from which the object is produced and the knowledge of the accused as to this. Therefore, the fact discovered need not merely be the physical object like a knife or the subject-matter of the dacoity and not only the place from which these objects are found, but the fact discovered may also be the knowledge of the accused of the place where

[1] (1946) 49 Bom. L. R. 508, P. C.

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the articles were concealed. Their Lordships of the Privy Council go on to say (p. 514):—

".....Information supplied by a person in custody that 'I will produce a knife concealed in the roof of my house' does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge; and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant."

Therefore, a statement may merely disclose the fact that a knife is concealed in a particular place. It may also disclose the fact that the accused had knowledge of the fact that the knife was concealed in a particular place. Therefore, if the statement leads to the discovery not only of the fact that the knife was in a particular place but also of the fact that the knife was in a particular place to the knowledge of the accused, then the fact discovered is not merely the knife or the place where the knife was lying, but the fact discovered would also be that the knife was lying in a particular place to the knowledge of the accused, and every portion of the statement made by the accused which relates to the discovery of this fact would be admissible under s. 27. In the case before the Privy Council the statement used by the accused which was challenged was, "I stabbed Sivayya with a spear, I hid the spear in a yard in my village. I will show you the place." The Privy Council held that the whole of the statement was admissible with the exception of the first part, viz. "I stabbed Sivayya with a spear." Therefore, their Lordships held that the statements "I hid the spear in a yard in my village," and "I will show you the place," were both admissible statements. The reason why, looking to the judgment of the Privy Council, their Lordships held that "I hid the spear in a yard in my village" was admissible was that this statement led to the discovery of the fact that the accused had knowledge that the spear was hidden in the yard in the village, and as that was a fact discovered, the statement relating to that discovery was admissible, and the statement relating to the discovery of that knowledge was "I hid the spear in a yard in my village." Apart from the decision of the Privy Council it is difficult to understand, once it is conceded that the knowledge of the accused may be a fact which can be discovered within the meaning of s. 27, how it is possible to argue that the source of the knowledge of the accused is not distinctly related to the discovery with regard to his knowledge. The accused may say, "I hid a particular object in a particular place." The accused may

say, "X or Y told me that a particular object is hidden in a particular place and, therefore, I believe it is there and I am prepared to point the place out." Either of the two statements is distinctly related to the fact of the knowledge of the accused with regard to the place where a particular object is concealed. Therefore, turning to the facts of this particular case, all the accused volunteered to show the place where the various articles were concealed, because they knew the place as they themselves had concealed these articles. Therefore, the statements made by the four accused led to the discovery not only of the fact that these articles were concealed in a particular place, but it also led to the discovery of the fact that these articles were concealed in these places to the knowledge of the accused, and if knowledge of the accused was a relevant fact which was discovered by reason of the statement, then the portion of the statement which distinctly related to that knowledge, viz., that the accused had concealed these articles, would be admissible under s. 27 of the Evidence Act.

There is a judgment of a full bench of this Court in *Queen Empress* v. *Nana*.[1] In that case the statement attributed to the accused was: "Yes, I have kept it. I will point it out. I have buried it in the fields." And the full bench consisting of Sir Charles Sargent, Chief Justice, and Mr. Justice Bayley, Mr. Justice Scott, Mr. Justice Jardine and Mr. Justice Parsons held that the statement was admissible with the exception of the first part, viz., "Yes, I have kept it." And in the judgment of the learned Chief Justice he deals with the argument that the property was not discovered in consequence of the information given by the accused to the police but by the act of the accused himself on the spot, and and he dismisses this argument by pointing out that (p. 264):

> ".....it was upon the information which the statement gave the police that they accompanied the accused to the spot where the earthen pot was disinterred by the accused containing the property, and it is equally clear that, if it had not been for this information, the property would not have been discovered, and it is, therefore, in accordance with the ordinary use of such terms to say that the discovery of the property in this case was 'the consequence' of the information."

The learned Chief Justice further adds (p. 264):

> "It set the police in motion, the immediate consequence being that the police asked the accused to show them the spot, and accompanied him there; but such a proceeding on the part of the police was with the view to the discovery of the property, and was the natural consequence

[1] (1889) 14 Bom. 260, F. B.

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of the information they had received from him, and so connected it with the final result, viz., the discovery of the property as a *causa causans*."

Therefore, this full bench clearly lays down that if there is a statement made by the accused which sets the police in motion, it is immaterial if the accused himself after making the statement points out the place to the police and the discovery is made. If what led the police to take the accused to the place in question is the statement of the accused, then such portion of the statement as is distinctly related to the discovery is admissible. The full bench also clearly considered the statement, "I have buried the particular object in the fields" as admissible, and the full bench was not troubled by the consideration which, with respect, has weighed with Mr. Justice Bavdekar and Mr. Justice Chainani that in considering the relationship which a portion of the statement bears to the discovery the authorship of the concealment should be ruled out in admitting the statement. In this particular statement before the full bench the accused admitted his own responsibility for burying the object in the fields and yet that statement was considered admissible, because according to the full bench it was that statement which led to the discovery of the object, and now in view of the Privy Council decision it also led to the discovery of the knowledge of the accused that the object was buried in the fields. It would be difficult to take the view that the Privy Council has in any way impaired the authority of this full bench decision. Far from impairing it, it has supplied a further argument to strengthen and consolidate the decision which has stood as good law since 1889.

The Government Pleader has drawn our attention to an impressive series of authorities of the different High Courts, both before and after the Privy Council decision, which have taken the same view of the law. Before the Privy Council decision was delivered, *Emperor* v. *Chokey*,(1) *Sukhan* v. *The Crown*,(2) *Sonaram Mahton* v. *King-Emperor*(3) and *Amiruddin Ahmed* v. *Emperor*(4) all take the same view of the law, and after the decision of the Privy Council, *Mohd. Ilyas* v. *The State*,(5) *Public Prosecutor* v. *Oor Goundan*,(6) In re *Vellingiri*(7) and *Mangal Singh* v. *King-Emperor*(8) have also taken the same view of the law.

(1) [1937] All. 710.
(2) (1929) 10 Lah. 283.
(3) (1930) 10 Pat. 153.
(4) (1917) 45 Cal. 557.
(5) [1950] A. I. R. All. 615.
(6) [1948] A. I. R. Mad. 242.
(7) [1950] A. I. R. Mad. 613.
(8) [1948] Nag. 57.

There is, however, a decision of this Court to which express reference must be made, because it seems to have taken a view of the law which is contrary in our opinion to the view of the Privy Council and the view of the full bench just referred to and also the view taken by the other High Courts, and that is the decision reported recently in *State* v. *Rangrao Dnyanu.*[1] That is a judgment of Mr. Justice Bavdekar and Mr. Justice Chainani. In that case the statement the learned Judges were considering was that the accused had kept a bomb in a cattle-shed belonging to a friend of his and that he would take it out and give it to the police, and the bench took the view that the portions of the accused's statement that he had kept the bomb one month previously in his friend's cattle-shed were not admissible in evidence and that the only parts of the statement which could be admitted in evidence were those in which it was stated that the bomb was kept in the cattle-shed and that the accused would take it out and hand it over to the police. Now, with respect to the learned Judges, they do not seem to have attached sufficient importance to what was laid down by the Privy Council that the knowledge of the accused is a fact which can be discovered under s. 27 of the Evidence Act. Nor have they attached sufficient importance to the decision of the full bench in *Queen Empress* v. *Nana.* We also find, again with respect to the learned Judges, that an earlier decision of a division bench of this Court was not cited before them, and that was a judgment of Mr. Justice Lokur and Mr. Justice Divatia reported in *Emperor* v. *Namdeo Kaikadi.*[2] In that case the statement was: "I put a bomb in R's office, I will show it to you." This statement was held to be admissible on the same ground as taken by the full bench, viz., that it was this statement that put the police in motion and which resulted in the finding of the bomb at the place indicated.

Mr. Mandgi has drawn our attention to the fact that the salutary safeguard provided by the Legislature in s. 27 is the actual physical discovery of the object. But, says Mr. Mandgi, if even the knowledge of the accused is to be considered as a fact discovered under s. 27, then that salutary safeguard would disappear. There is force in Mr. Mandgi's criticism, but we would like to point out that the criticism of Mr. Mandgi is directed more to the evidentiary value of a statement made by the accused rather than to its admissibility. It does not follow that because a portion of a statement of the accused is

[1] [1951] 53 Bom. L. R. 834. [2] (1944) 46 Bom. L. R. 546.

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admissible in evidence, the Court is bound to act upon it or to attach to it the importance which it would attach to independent evidence; and we should also like to point out that the Privy Council has also emphasised that in considering the relationship which a portion of a statement bears to the discovery of the fact, information as to past user or the past history of the object produced is not related to its discovery in the setting in which it is discovered. Therefore, you have to look at the setting in which an object is discovered, and the portion of the statement which is to be admitted is to be strictly confined to the knowledge of the accused with regard to the particular setting in which the object was discovered. We hope that this judgment will not be looked upon as expanding unduly the ambit or scope of s. 27 of the Evidence Act.

We would, therefore, answer the question submitted to us as follows: That the statement with regard to the authorship of the concealment is admissible in evidence under s. 27. We also hold that *State* v. *Rangrao Dnyanu,* with respect, was wrongly decided. Mr. Justice Bavdekar in the referring judgment has referred to his own unreported judgment in *State* v. *Kalekhan Sale Mahomed Khan.*[1] In our opinion, again with respect, that judgment seems to take a different view from the full bench in *Queen-Empress* v. *Nana.* To the extent that it takes a different view from the full bench in *Queen-Emperor* v. *Nana,* in our opinion the decision is erroneous. Mr. Justice Bavdekar has also referred to another unreported judgment of Mr. Justice Rajadhyaksha and Mr. Justice Dixit in *Pandurang Dagdu Jadekar* v. *State.*[2] That judgment takes the same view as we have taken in this full bench. In that judgment of Mr. Justice Rajadhyaksha and Mr. Justice Dixit the statement that came up for consideration was, "I have kept the stolen articles in a forest near the Bori field at Pimpalgaon; I will show that to you." The learned Judges admitted the statement under s. 27. With respect, we agree with that view, except that they should have deleted from the statement the adjective "stolen" as it was not related to the discovery of the fact.

Answer accordingly.

M. W. P.

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[1] (1951) Confirmation Case No. 13 of 1950 (with App. No. 688 of 1950), decided by Bavdekar and Dixit JJ., on January 21, 1951, (Unrep.).

[2] (1951) Criminal Appeals Nos. 403 and 404 of 1951, decided by Rajadhyaksha and Dixit JJ., on August 6, 1951, (Unrep.).