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Ram Ratan and anr. Vs. State

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Court : Allahabad

Decided On : Sep-03-1975

Reported in : 1976CriLJ1799

Judge : Hari Swarup, J.

Appellant : Ram Ratan and anr.

Respondent : State

Judgement :
ORDER

Hari Swarup, J.

1. This application has been moved for the transfer of a Sessions trial pending in the court of Sri B. N. Srivastava, Ist additional District and Sessions judge, Jhansi. The application has been moved on a number of grounds some of which relate to the remarks made; by the learned Judge in respect of the accused. The comments received from the learned Judge, however, show that the allegations are not reliable. No transfer can, therefore, be ordered on these allegations,

2. One ground however, is that the present accused had been tried in the same court and had been convicted by the learned Judge on the basis of evidence of certain persons who are also witnesses in the present trial. It is urged that as the learned Judge had believed these witnesses in the earlier case, there is possibility

that the learned Judge may believe them again. A witness is believed on the basis of many factors. One of the factors is the demeanour of the witness. In the earlier case the court had believed these witnesses from which it could be inferred that the demeanour of the witnesses had been accepted as indicating the demeanour of a truthful witness. The same witnesses will be corning again. There is no doubt that the learned Judge's mind will not be influenced by the fact that he had believed their testimony in the earlier case. But this may be a factor which may remain lurking in the mind of the accused throughout the trial and if these witnesses are believed again they may have a feeling that the judgment of the learned Judge was influenced by the opinion he had made about these witnesses in the earlier case. In a criminal prosecution a court is always to give an accused a trial in which he may not have even the remotest cause to think or feel that he did not get a fair trial.

3. As by the transfer of the case the prosecution will not suffer any injury and it will give greater confidence to the accused, the case pending before the 1st Additional District and Sessions Judge, Jhansi (Sri B. N. Srivastava), is transferred to the Court of the District and Sessions Judge Jhansi. He may try the case himself or transfer it to some other court in his Sessions division.

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