

Ram Adhar and ors. Vs. State

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Court : Allahabad

Decided On : Feb-05-1954

Reported in : AIR1954All645

Judge : Sapru, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 340

Appeal No. : Criminal Revn. No. 308 of 1953

Appellant : Ram Adhar and ors.

Respondent : State

Advocate for Def. : K.S. Verma, Addl. Govt. Adv.

Advocate for Pet/Ap. : B.K. Shukla, Adv.

Disposition : Revision allowed

Judgement :

ORDER

Sapru, J.

1. I am rather surprised at the judgment of the learned Sessions Judge upholding the conviction of the applicants accused without affording an opportunity either to the applicants or to their counsel to present the case for them. The learned

Sessions Judge appears to think that special credit is due to him for having refused to hear arguments proposed to be addressed by the applicants' counsel or the applicants themselves.

2. It may be that in an application in revision it is not obligatory on the Court to hear counsel, but even at the admission stage Courts prefer to hear counsel. It should be borne in mind by our Sessions Judges and our Magistracy that citizens have a right in a democratic State to seek the assistance of our Courts of law for the protection of their right to life, reputation and liberty. One of the principles which is firmly embedded in the system of jurisprudence that we administer is that justice must not only be done, but must seem to be done. If parties either to a civil or a criminal litigation were to get the impression that Courts have no use for counsel, that they are not prepared to hear arguments addressed to them and that they come to Courts with closed minds, confidence in the administration of justice will be shaken. It is neither right nor proper for a Judge to remark, as the learned Sessions Judge has done in this particular case, that no useful purpose will be served by hearing the applicants or their counsel. An accused person has right to expect that his case shall not be approached, with a closed mind but this unfortunately is the impression which a remark of the character made by the learned Sessions Judge is likely to create in the minds of the litigant public. While it is incumbent on the Courts to see that their time is not wasted by frivolous arguments, it is also obligatory on them to remember that without the assistance of counsel the quality of their work will possibly suffer.

3. Fortunately the reputation of our judiciary in this State stands high and it is not usual for our Judges to refuse to hear counsel or the accused, if he is not represented by counsel. I do not mean to suggest that it is not part of a Judge's duty to control arguments so as to ensure that they shall only be of a relevant character. It is, however, definitely undesirable to rule out all arguments whether relevant or irrelevant and to make a boast of having done so. I am bound to say that I do not look upon the approach to this case by the learned Sessions Judge as a proper one. It is not consistent with principles of natural justice.

4. As I think that the learned Sessions Judge was wrong in refusing to allow any argument to be addressed to him, I do not think it desirable to discuss his judgment, which in other respects too is a perfunctory one, to see whether the view arrived at by him was correct or not. I have, in these circumstances, come to the conclusion that the correct course for me is to set aside the order of the learned Sessions Judge and direct him to rehear the application in revision according to law, after giving an opportunity to the applicants or their counsel to argue their case. I order accordingly.

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