

Singh Raj Vs. State of U.P.

Singh Raj Vs. State of U.P.

SooperKanoon Citation : sooperkanoon.com/488064

Court : Allahabad

Decided On : Jul-30-2001

Reported in : 2001CriLJ4788

Judge : J.C. Gupta, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 311

Appeal No. : Criminal Revision No. 1942 of 2001

Appellant : Singh Raj

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Sunil Kumar, Adv.

Disposition : Revision dismissed

Judgement :

ORDER

J.C. Gupta, J.

1.Heard Sri Sunil Kumar, counsel for the applicant in revision and learned A.G.A. This revision is directed against,the order dated 24-4-2001 whereby the learned Sessions Judge has summoned three wit nesses in exercise of powers conferred

on it under Section 311, Cr.P.C.

2. Learned Counsel for the applicant submitted before the court that after the parties had adduced evidence and the Court had heard arguments, the Court below has summoned the three witnesses who were cited in chargesheet whom the prosecution did not examine earlier and thus the trial Court is filling up lacuna left by the prosecution.

3. It is now well settled by catena of decisions of Apex Court that a lacuna in prosecution is not to be equated with the fall out of an oversight committed by Public Prosecutor during trial, either in producing relevant material or in eliciting relevant answers from the witnesses. Lacuna in the prosecution case must be understood as the inherent weakness or a latent wedge in the matrix of the prosecution, case. No party can be foreclosed from correcting errors. If proper evidence was not produced or relevant material was not brought on record due to any inadvertence, it is the duty of the Court to rectify such mistake for doing justice between the parties. Three witnesses whom the trial Court has now summoned were interrogated during investigation and the trial Court has thought their evidence to be necessary for a just decision of the case. By no stretch of imagination, their non-production could be characterised as a lacuna in prosecution case. This revision, thus has no merit and is accordingly dismissed with the observation that the trial Court shall not make every endeavour to conclude the trial as expeditiously as possible within a period of two months from the date of communication of this order.