

Rajendra Singh Vs. Administration

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Court : Madhya Pradesh

Decided On : Feb-08-2001

Reported in : 2001(2)MPHT377

Judge : Mr. N.K. Jain, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 193, 319 and 319(3)

Appeal No. : Misc. Criminal Case No. 596/2001

Appellant : Rajendra Singh

Respondent : Administration

Advocate for Def. : Shri G. Desai, Dy. Advocate General

Advocate for Pet/Ap. : Shri Amit Agrawal, Adv.

Disposition : Misc. criminal case allowed

Judgement :

ORDER

N.K. Jain, J.

1. Heard.

Applicant is aggrieved by the order dated 11-12-2000 passed by Special Court, Dhar, whereby the Court below on an application made by accused respondent No. 2 Rafiq Khan under Section 319 of Cr.P.C., has issued notice to the applicant to show-cause as to why he should not be impleaded as co-accused in the case together with respondent No. 2 Rafiq Khan who is facing trial on the charges under the Prevention of Corruption Act, 1988.

2. It is a common ground that evidence in the case has yet not commenced. In fact, the case is still fixed for arguments for framing of charges.

3. It is too well settled that the Court can issue process against a person who is not charge-sheeted under Section 193, only after having begun the trial and having recorded some evidence of the prosecution. [See : Ranjeet Singh, 1998 (7) SCC 149 and Tegnarayan, 1999 SCC (Cr.) 356]. In the instant case, as already pointed out, the trial is at the stage of framing of charge. Obviously, the stage had not reached to take recourse to Section 319 of Cr.P.C. and the Court below was, therefore, clearly wrong in entertaining the application under Section 319(3) of Cr.P.C. The procedure of issuing show-cause notice is also not provided under the Cr.P.C. It is only when some evidence is recorded and if the Court is satisfied that any person not being the accused has also committed the offence for which such person could be tried together with the accused, that it may proceed against such person for the offence which he appears to have committed. For that purpose no show-cause notice is required.

4. This petition thus succeeds and is allowed and the impugned order as also the show-cause notice issued against the applicant, are quashed.

5. Misc. Criminal Case allowed.