

Ram Kishan Vs. State

Ram Kishan Vs. State

SooperKanoon Citation : sooperkanoon.com/505940

Court : Madhya Pradesh

Decided On : Feb-09-2005

Reported in : 2005(4)MPHT112

Judge : U.C. Maheshwari, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 303, 397 and 401

Appeal No. : Criminal Revision No. 159/2005

Appellant : Ram Kishan

Respondent : State

Advocate for Def. : J.K. Jain, Govt. Adv.

Advocate for Pet/Ap. : Santosh Kumar Singh, Adv.

Disposition : Petition allowed

Judgement :

ORDER

U.C. Maheshwari, J.

1. Being aggrieved by the order dated 7-10-2004, passed by First Additional Sessions Judge, Sidhi in Sessions Trial No. 73/2004 whereby the present applicant has been refused for a permission to contest his criminal case by the

Counsel of his choice, hence, this revision has been preferred under Section 397/401, Criminal Procedure Code.

2. After perusing the impugned order, I am of the view, that this order deserves to be set aside.

3. Applicant engaged a Counsel namely, Brajesh Kishore Pandey to defend his case. Earlier, he was defended by a Counsel appointed by Legal Aid Committee. The prayer to engage the Counsel to defend the case was made from jail where the applicant is kept in judicial custody. By passing the impugned order the permission was rejected while the permission should have been given by the Trial Court in view of the provisions of Section 303 of Code of Criminal Procedure, which says as under :

'Right of person against whom proceedings are instituted to be defended.

Section 303. Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.'

4. In view of the abovesaid provisions any accused of an offence before a Criminal Court has a right to defend his case by a pleader of his choice, so, apparently the error of jurisdiction has been committed by the Trial Court. Therefore, this revision petition is allowed and by setting aside the impugned order, the Counsel proposed by the applicant is permitted to defend the case on behalf of the applicant. Revision petition is allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com