

Prasant Kumar Singh Vs. State of Orissa

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Court : Orissa

Decided On : Jun-19-1998

Reported in : 1998CriLJ4762

Judge : P.K. Tripathi, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 205

Appeal No. : Crl. Misc. Case No. 274 of 1998

Appellant : Prasant Kumar Singh

Respondent : State of Orissa

Advocate for Def. : R.K. Patnaik, A.S.C.

Advocate for Pet/Ap. : Susanta Kumar Dash, ;S.K. Mishra, ;B. Mohapatra and ;S. Dash, Advs.

Judgement :
ORDER

P.K. Tripathi, J.

1. Heard.

2. It is agreed upon by both the parties that this matter may be disposed of at this stage of hearing on admission.

3. Petitioner is one of the accused persons in G.R. Case No. 2 of 1997 of the Court of S.D.J.M., Banki. He prayed for representation under Section 205 of the Code of Criminal Procedure, 1973 (in short 'the Code'). That petition was rejected on 6-1 -98 and the following order was passed,

The record is put up today on the strength of advance petition.

Advocate for R.N. Prusty files power on behalf of the accused/absconder Sri Prasanta Ku. Singh and files a petition under Section 205, Cr.P.C. praying dispense with the personal appearance of the accused before this Court on the ground stated therein. Copy served on the A.P.P. The petition under Section 205, Cr.P.C. hence rejected.

4. Learned Counsel for the petitioner states that grounds advanced in support of the prayer was not at all considered and the petition was rejected under Section 205, Cr.P.C. arbitrarily by a non-speaking order. His prayer is that learned Magistrate, should consider the grounds advanced and pass a reasoned order. Learned Addl. Standing Counsel has no objection to that submission.

5. From the abovequoted order it is apparent on the face of it that the application was summarily rejected without assigning any reason. Such an attitude is neither proper nor desirable. Hence the impugned order is set aside and the matter is remanded to the learned S.D.J.M., Banki to hear afresh the petitioner under Section 205, Cr.P.C. and to dispose of the same in accordance with law and delivering a speaking order within a period of 15 days from the date of receipt of a copy of this order.

6. Learned Counsel for the petitioner undertakes to produce a certified/authenticated copy of this order before the S.D.J.M. by 6-7-1998. In that event learned S.D.J.M. shall fix a date for hearing of the petition under Section 205, Cr.P.C. and dispose of the same within a period of 15 days thereafter, Free copy of this order be supplied to learned Addl. Standing Counsel so as to issue appropriate instruction to the State Counsel appearing in that Court.