

Sajjan Kumar Vs. State

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Court : Delhi

Decided On : Jul-20-1995

Reported in : 1996CriLJ623; 59(1995)DLT271

Judge : A.K. Srivastava, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482

Appeal No. : Criminal Miscellaneous Appeal No. 2123 of 1995 Criminal Revision Appeal No. 80 of 1994

Appellant : Sajjan Kumar

Respondent : State

Advocate for Pet/Ap. : I.U. Khan,; K.K. Sud and; N.K. Handa, Advs

Judgement :

A.K. Srivastava, J.

(1) This is an application under Section 482 Cr.P.C. in Crl.R. No.80/94, Sajjan Kumar v. State. By this application the revisionist prays that he may be permitted to withdraw the revision petition with liberty to take all the pleas as raised in the present revision petition before the Trial Court at the appropriate stage. The facts of the case are that' the Trial Court by its order dated 1.3.94 summoned the revisionist along with one Ishwar Singh as accused in a case under Sections

147/148/149/436/307/395 IPC. Feeling aggrieved by that order this Crl. R. No. 80/94 was filed in this Court on 5.4.1994. After hearing was made notice was issued to the respondents to show cause as to why the revision petition be not admitted fixing 22.4.94. On that date the revision petition was heard in part by V.B. Bansal, J. Further arguments were heard in part on 25.4.1994. On 26.4.94, on some preliminary point, arguments were heard and orders were reserved. But on May 2, 1994, V.B. Bansal, J. passed an order to the effect that His Lordship would hear arguments on all the points and the preliminary objections would be dealt with while disposing of the revision petition. Thereafter, on 22.7.94 V.B. Bansal, J. released the case from being part heard. Thereafter the revision petition has not been heard so far though several dates were fixed.

(2) The application for withdrawal with liberty to take pleas before the Trial Court has been vehemently opposed by the learned Counsel for the opposite party. The ground taken is that there is no provision in the Cr.P.C. for withdrawal of the revision and that the revisionist has already delayed the trial before the lower Court by raising legal pleas here in this revision petition and now he should not be allowed to further delay the matter by raising all the pleas before the Trial Court.

(3) During the course of arguments the learned Counsel for the applicant brought to the notice of this Court that during the arguments on the main revision petition the thrust of the opposition made by the opposite party was that all the pleas raised in the revision petition could be taken before the Trial Court. On the basis of the aforesaid alleged facts the learned Counsel for the applicant contended that when the revisionist is accepting to follow the course as proposed by the opposite party; then now why should the learned Counsel for the opposite party object to the present application.

(4) The learned Counsel for the opposite party now does not agree to any proposition made by him earlier saying that already too much time has elapsed and now the revision petition should be decided on its merits in order to have finality and the revisionist should not be permitted to further delay the matter in raising those very pleas before the Trial Court. He further made arguments that a revision petition once heard from both the parties should not be dismissed in the

manner the revisionist is seeking under the application under consideration. He has requested the Court to decide the revision on merits. The legal plea raised by him is that a revision petition is not like a writ petition or a civil suit or any application implicate which may be withdrawn with liberty to seek appropriate remedy in appropriate Court at appropriate time. Once the revision petition is heard, it has to be decided on merits and not to be dismissed as withdrawn or in default of revisionist.

(5) In support of his arguments the learned Counsel for the respondent has relied on : AIR 1962 SC1530 .

(6) I have carefully considered the arguments advanced by the learned Counsel for the applicant and the opposite party and have taken into consideration the provisions of Section 397 Cr.P.C. 1973 and the facts and circumstances of this case. I am of the view that in the circumstances it is legally impermissible to dismiss the revision as withdrawn with liberty to take all the pleas taken here in the revision petition before the lower Court against whose order the revision has been filed. The revision petition is to be decided on merits. The learned Counsel for the revisionist may or may not, at his own option, assist the Court in arriving at a correct conclusion. However, this Court will afford all the opportunities to the revisionist as well as the opposite party to advance their arguments on the subject matter in issue. In view of the aforesaid, the application is not accepted and is disposed of accordingly. Let the revision petition be listed for hearing on 29.9.1995.

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