

State Vs. Ravi Kant Sharma and ors.

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Court : Delhi

Decided On : May-09-2005

Reported in : 120(2005)DLT213; 2005(82)DRJ412

Judge : H.R. Malhotra, J.

Acts : Evidence Act - Sections 137 and 138; Code of Criminal Procedure (CrPC) - Sections 231(2)

Appeal No. : CRLR 173/2005

Appellant : State

Respondent : Ravi Kant Sharma and ors.

Advocate for Def. : S.P. Minocha and ; Sushil Bajaj, Advs. for Respondent No. 1

Advocate for Pet/Ap. : S.K. Sexena, Spl. P.P. and; Manisha Sharma, Adv

Judgement :

H.R. Malhotra, J.

1. This revision is to assail part of the order dated 13th December, 2004 passed by the Additional Sessions Judge, Delhi, making a schedule for recording of evidence of the prosecution witnesses. The learned Additional Sessions Judge while fixing such schedule made two sets of prosecution witnesses for the purposes of the

their evidence; one for formal witnesses and another for lengthy witnesses. The Additional Judge was of the view that since it was not possible to curtail and curb the lengthy cross examination and therefore ordered that examination of chief of lengthy witnesses would be recorded first in April and May, 2005 and their cross-examination would follow in July, 2005. This part of the order is being challenged by way of filing the revision petition.

2. I have heard learned Special Public Prosecutor on behalf of the petitioner and also counsel for the respondent. Section 137 and 138 of the Evidence Act deals with the aspect of examination of witnesses. Reading of these provisions would show that the intention of the legislature while enacting such provisions was to ensure that cross-examination takes place immediately after examination-in-chief, as is provided under Section 231(2) of the Code of Criminal Procedure if circumstances so warrants.

3. True the Court has discretion to defer the cross-examination. But as a matter of rule, the Court cannot orders in express terms that the examination-in-chief of the witnesses is recorded in a particular month and his cross-examination would follow in particular subsequent month. Even otherwise it is the demand of the criminal jurisprudence that criminal trial must proceed day-to-day. The fixing of dates only for examination-in-chief of the lengthy witnesses and fixing another date i.e. 3 months later for the purposes of cross-examination is certainly against the criminal administration of justice. Examination-in-chief if commenced on a particular date, the Trial Judge has to ensure that his cross-examination must conclude either on the same date or the next day if cross-examination is lengthy or can continue on the consecutive dates. But postponing the cross-examination to a longer period of 3 month is certainly bound to create legal complications as witnesses whose examination-in-chief recorded earlier may insist on refreshing their memory and therefore such an occasion should not be allowed to arise particularly when it is the demand of the criminal law that trial once commence must take place on day-to-day basis. For these reasons, the order passed by the learned Additional Sessions Judge to that extent will not hold good in the eyes of law and therefore the same is liable to be set aside. Set aside as such. Learned Additional Sessions Judge should refix the schedule of dates of examination of prosecution witnesses

and shall ensure that examination-in-chief once commences cross-examination is completed without any interruption.

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