

Manmohan Lal Sachdev and ors. Vs. State

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Court : Delhi

Decided On : Apr-22-1999

Reported in : 1999IVAD(Delhi)925; 79(1999)DLT734

Judge : N.G. Nandi, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 225, 301 and 482

Appeal No. : Crl.M (M) Nos. 861 & 1796 of 1999

Appellant : Manmohan Lal Sachdev and ors.

Respondent : State

Advocate for Def. : Mr. M.S. Butalia, Adv.

Advocate for Pet/Ap. : Mr. K.K. Sud and; Mr. Jayant Sud, Adv

Judgement :

N.G.Nandi, J.

1. In this petition under Section 482, Criminal Procedure Code (for the short 'Code') petitioners/accused have been challenging the order dated 4.12.1998 passed by learned Additional Sessions Judge, Delhi, allowing the Counsel for the complainant to address arguments at the instruction from A.P.P., in charge of the case.

2. Learned Counsel for the petitioners contended that under Sub-section (2) of Section 301 of the Code, Counsel engaged by a private party may, with the permission of the Court submit written arguments after the evidence is closed in the case. Referring to section 225 of the Code, it has been Submitted that in every trial before a Court of Sessions, the prosecution shall be conducted by a Public Prosecutor.

3. Mr. Butalia, learned APP, does not dispute the proposition of law that the private Counsel engaged by a complaint cannot address arguments before the Court, but has to assist the Public Prosecutor in-charge of the trial and at the most can submit written arguments, as provided under Sub-section (2) of Section 301 of the Code.

4. Considering the provisions of Sub-section (2) of Section 301 of the Code, the order permitting the private Counsel of the private party namely the complainant to advance arguments on the question of charge cannot be sustained in law and the impugned order permitting the Counsel for the private party to address arguments on the question of charge needs to be quashed.

5. In the result, the petition is allowed. The impugned order permitting the Counsel of the private party to advance arguments is set aside. However, the Counsel for private party may with the permission of the Court, submit the written arguments after the evidence is closed in the case.

6. This order be communicated to the learned trial Judge concerned.

7. Petition allowed.