

State of Rajasthan Vs. Devi Singh and ors.

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Court : Rajasthan

Decided On : Jan-04-1990

Reported in : 1990(2)WLN10

Judge : D.L. Mehta and; Farooq Hasan, JJ.

Appeal No. : D.B. Cr. Appeal No. 346 of 1989

Appellant : State of Rajasthan

Respondent : Devi Singh and ors.

Judgement :

D.L. Mehta, J.

1. Very important question of law has been raised by Dr. Biri Singh, the learned Counsel for the respondents. Ordinarily the sentences are suspended and some benches of this court has adopted that the accused should remain present after submission of the bail bonds, on a particular date fixed by the registry-The case is not listed before the court and even the case is not shown in the cause list. Generally, the practice is that the accused whose sentence has been suspended or who has been granted bail puts his personal appearance before the clerk and leaves the registry. He is not expected to appear in person thereafter All cases are heard in the sentence of the accused and he is represented by a counsel.

2. Mr. Biri Singh raised the following question (i) Is it necessary that the accused should remain present in person before the clerk of the registry after suspension of the sentence? Is it not necessary to fix a date and to show the same in the cause list if accused presence is at all necessary? (iii) Whether the presence of accused is necessary at all?

3. We have also asked Government Advocate appearing on behalf of the State to make necessary arguments as the questions relates general administration of the registry. We are of the view that the presence before the clerk of the registry whose sentence has been suspended, is only for the convenience of the registry and not for the administration of the law and justice. Particularly, when the case are not shown even in the cause list, person whose sentence has been suspended, has to come times from a distance of more than 500 Kms. only to show his face to the clerk of the court and even the registry do not know when the case will be taken up or not. How action an be taken against a person if he does not appear before the clerk of the court particularly when the case is not shown in the cause list. Even, on all subsequent dates the presence of the accused is considered not necessary Apart from that, what is the necessity of the accused remaining present before the clerk when his presence is not considered necessary even at the time of the final arguments We are of the view that a common practice should be evolved without any difference of opinion in the matter of appearance of the accused after suspension of the sentence or after the grant of bail, to the accused.

4. We here by direct that the presence of the accused after suspension of the sentence before the clerk of the court is not necessary at all in any case unless the case is shown in the cause list. We hereby further direct

that the same principle should be applied in the cases where bail have been granted by this court on State appeal. Personal appearance of accused should ordinarily be dispensed with even on the first date and he could be directed to appear when ever relied for. This will meet the ends of justice In the instant case, Mr. Biri Singh submits that the accused is present today though he was not present earlier but taking the peculiar facts of this case, it is not necessary to pass any order.

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