

Jethi Devi Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Jan-18-1990

Reported in : 1990WLN(UC)9

Judge : G.K. Sharma, J.

Appeal No. : S.B. Cr. Misc. Petition No. 406 of 1989

Appellant : Jethi Devi

Respondent : State of Rajasthan and ors.

Disposition : Petition allowed

Judgement :

G.K. Sharma, J.

1. This is a petition Under Section 482 Cr. PC against the order of the trial court, dated 9th Aug. 1989, by which the application of the petitioner for exempting her personal attendance in the court, was dismissed.

2. Mr. Chaudhary agreed that a case Under Section 323, 147 & 451 IPC is pending against the petitioner, who is duly represented by her counsel, she is a lady of about 55-60 years of age; and the trial court has wrongly rejected her application for exemption of the personal attendance.

3. The counsel for non-petitioner No. 2 objected to grant of this petition. He urged that this court should not interfere in such matters Under Section 482 Cr. PC. According to him, the case is pending there for the service on the accused persons; two years have passed; but, not for a single day, the petitioner has attended the court; and one of the accused is still to be served. His argument was that it is discretion of the trial court whether or not to grant exemption of personal attendance.

4. Considered arguments. No doubt, granting exemption is a discretion of the court, but, it is always expected that the court would exercise this discretion judiciously. What I find is that the order of the trial court is an arbitrary one. Secondly, I do not agree with the argument that this court has ample power to grant-petition Under Section 482 Cr. PC. The section is very clear, and in the interest of justice, this court has ample power to interfere in the orders of the trial court, which are not according to the principles of natural justice.

5. The next argument of the counsel for non-petitioner No. 2 that the case has been pending for service on the accused persons since long, is not the fault of the petitioner. If the court is not able to get the service done on the accused persons, the accused who has been served, is not to be blamed. More over, it was the duty of the complainant also to have got the service done on the accused persons. Two years have passed and the accused persons have not been served, shows that the complainant himself is not keen to proceed with the case, and his intention is only to harass the accused persons by filing a complaint; Therefore, the argument of the counsel for the complainant, has no substance.

6. The petition is, therefore, accepted. The order of the trial court dated 9th Aug. 1989, is set aside, and, Personal attendance of the petitioner in the Court is exempted, and she is permitted to be represented by her counsel.