

Abdul Waheed Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-08-1989

Reported in : 1989WLN(UC)85

Judge : G.K. Sharma, J.

Appeal No. : S.B. Cr. Misc. Petition No. 82 of 1989

Appellant : Abdul Waheed

Respondent : State of Rajasthan

Disposition : Petition Allowed

Judgement :

G.K. Sharma, J.

1. Admitted. With the consent of both the learned Counsel, the case is disposed of at this stage today.

2. The petitioner alongwith 3 other persons has been challaned under Sections 147, 323, 341, IPC. After recording evidence of both the sides, the arguments have been heard but the judgment has not been pronounced on the ground that cross case is pending.

3. Shri Dhankhar argued that one of the accused Aslam lodged a FIR which was registered under Section 147, 323 IPC The Police submitted final report. Aslam filed a complaint and on 8-2-1988 the court issued process against 8 persons. Two accused had been served and the remaining are yet to be served. The two accused who have been served have also absconded and proceeding under Section 446, Cr.P.C. are pending, So in cross-case time will be consumed in getting the service on other accused. It was also argued that the petitioner is not the complainant. He has not been examined under Section 202, Cr.P.C. by the complainant. So there is no necessity to wait for the private complaint and the case of the petitioner can be disposed off.

4. I have considered the arguments. The lower court has relied on the case of Pyare Lal and Ors. v. State 1987 RLR (II) 379. In this case of Pyarelal's (supra) the observation of this Court is that as far as possible and practicable, trial in two cross-cases arising out of one and the same incident should be held and concluded together.

5. The case of the present petitioner has been concluded. The cross case is yet to start. In cross case only process has been issued and the service of accused persons will take time. The petitioner is Pakistani National who came to India on valid Passport and has been detained in India on account of this case. He is a student also, so his further detention would ruin his educational career. Then in the cross-case he is not the complainant. He has not been examined even under Section 202, Cr.P.C.. So in these peculiar circumstances, the principle of Pyarelal's case (supra) are of no assistance to the Court. The circumstances in both these cases are different. It is not just and reasonable to wait till the cross-case is ripened. The petitioner is a Pakistani National who has been detained in India for this case. So in the interest of justice and also in the interest of the petitioner, the case pending against him be disposed of. It is not necessary, in the present circumstances, to wait for the conclusion of the trial in the cross case.

6. The Petition is, therefore, accepted. The order of the trial court dated 23-1-1989 is set aside. It is directed that the Cr. Case No. 112/87, State v. Abdul Waheed and Ors. be decided immediately without waiting for the disposal or concluding the

trial of the cross-case.

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