

Dayanand Vs. State

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Court : Rajasthan

Decided On : Mar-22-1991

Reported in : 1991WLN(UC)548

Judge : Farooq Hasan, J.

Appeal No. : S.B. Cr. Misc. Petition No. 441 of 1991

Appellant : Dayanand

Respondent : State

Disposition : Petition allowed

Judgement :

Farooq Hasan, J.

1. This criminal misc, petition arises out of an order whereby the lower court did not consider petitioner's application dated 14.3.1991 for exempting him from personal, attendance & allowing him to appear through his counsel and observed that it is not of an urgent nature and therefore, order to place the application for its consideration on the next date fixed in the case, which is said to be 3-4-1991.

2. Admittedly, the petitioner had been exempted from personal attendance and allowed to appear through his counsel, and undisputedly criminal case relates back to the incident alleged to have been committed in the year 1978, and more

than 7/8 persons are involved in the case inasmuch as the charges are yet to be framed. The petitioner is said to be going to Iraq and have purchased air tickets by spending huge amount. Photo state copies of air tickets have been shown to this Court. Mr. Naruka also relied upon the decision of this Court in Mahesh & Laxmi Narain v. State 1980 Raj. Cri. Cases p. 379 wherein the accused moved application for exemption from personal attendance at the time when the charge was to be framed against him, and this Court held that the presence of the accused not necessary at the time when the charge was to be read over and that the charge could be read over to the counsel for the accused.

3. Having benefited by the enlightments derived from the above decision, and keeping in view the fact that in the case at hand, earlier also the petitioner had been allowed to appear through his counsel and only because of lawyer's strike, neither his counsel nor the petitioner, himself, could appear, the petitioner has to present in court, and further the fact that the case relates back to the incident of 1978 wherein still the charge has yet to be framed, therefore, there was no emergent situation to keep the application for exemption pending in view of emergent cause for the petitioner to go out of country on account of visa period, I am of the opinion that this cr. misc. petition deserves to be allowed.

4. For the reasons, stated above, this petition is allowed, and the petitioner is permitted to appear in the trial Court while emptying from his personal appearance in Cr. case pending against him. The trial Court is however directed to act accordingly and it will be free to direct the accused-petitioner to be present in the Court whenever it considers necessary for the ends of justice, as & when his presence is deemed necessary for fair trial. Office is directed to comply with the aforesaid order forthwith.