

Hari Ram Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Dec-09-1997

Reported in : 1997(2)WLC170; 1998(1)WLN558

Judge : Amaresh Ku. Singh, J.

Appeal No. : S.B. Criminal Misc. Petition No. 267 of 1993

Appellant : Hari Ram

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

Amaresh Ku. Singh, J.

1. Heard the learned Counsel for the petitioner and the learned Public Prosecutor.

By this petition under Section 482 Cr. P.C. it is prayed that the criminal appeal No. 16/92 Hari Ram v. State of Rajasthan filed under Section 63 of the Narcotic Drugs & Psychotropic Substances Act, 1985 be transferred from the Court of Special Judge, Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act), Cases cum-Additional Sessions Judge, Jodhpur to the Court of District and Sessions Judge, Jodhpur. The ground on which the prayer for transfer of the appeal has been made is that Sub-section (3) of Section 63 of the Narcotic Drugs

& Psychotropic Substances Act requires the appeal to be filed before the Court of Sessions and, therefore, it is the District and Sessions Judge only who can hear and dispose of the appeal and an Additional Sessions Judge, who is of the same rank as the Special Judge appointed under the Narcotic Drugs & Psychotropic Substances Act cannot hear the appeals filed under Section 63 of the NDPS Act.

2. The learned Public Prosecutor concedes that it would be proper if the appeal is disposed of by the District and Sessions Judge, Jodhpur himself.

3. It is true that according to the provisions of the Criminal Procedure Code, there can be only one court of Session in a District and all Additional Sessions Judges exercises jurisdiction in the same Court of Sessions, in which the Session Judge exercises the jurisdiction, subject of course to the orders or directions give by the Sessions Judge as to the distribution of business. However, this fact cannot be ignored that the Special Judge who has is appointed under the provisions of the Narcotic Drugs & Psychotropic Substances Act is an officer of the rank of Additional Sessions Judge and the order of confiscation against which an appeal is filed under Sub-section (3) of Section 63 is passed by him. It would, therefore, be proper that the appeal is heard and finally disposed of by an officer, who is of the rank of Sessions Judge.

4. Having regard to the facts and circumstances of the case, the petition is allowed and it is hereby ordered that criminal appeal No. 16/92 filed under Section 63(3) of the Narcotic Drugs & Psychotropic Substances Act shall be heard and disposed of by the learned District and Sessions Judge, Jodhpur. The learned District and Sessions Judge, Jodhpur shall recall the order, by which the appeal was made over to the Special Judge, Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act) Cases-cum-Additional Sessions Judge, Jodhpur. A copy of this order be sent to the learned Sessions Judge for information and necessary action.