

Baljit Singh and Another

Vs

State of Jammu & Kashmir and Others

Criminal Appeal No. 905 of 1981 and Special Leave Petition (Criminal) No. 2500 of 1981

(A.D. Koshal, A. Varadarajan JJ)

30.11.1981

JUDGMENT

KOSHAL, J. –

1. A case under section 302 and 392 of the Indian Penal Code has been transferred from Jammu to Srinagar by the High Court through the impugned order on the sole ground that most of the witnesses who belong to Jammu have already been examined by the trial court and that only witnesses from Kashmir division or Delhi remain to be examined. We feel that in the circumstances of the case this is not at all a proper approach to the matter specially when another application for transfer of the case had already been rejected by the same Hon'ble Judge of the High Court, although even at that stage the same ground for the transfer was put forward before him. Nor do we find that it would be a correct principle to apply to the transfer of criminal cases that they should be heard at the place from where a larger number of witnesses are to be examined. The normal course of things should not have been lightly interfered with and the case should have been allowed to be tried by the court which had territorial jurisdiction. Accepting the appeal, therefore, we set aside the impugned order and direct that the case shall continue to be tried at Jammu by the court which has dealt with it so far.

2. Learned counsel for respondent 2 prays for a direction from this Court in regard to production of the car in question before the trial court, which, it is stated, has enjoined that the vehicle be made available in court on all the dates of hearing. We see no reason to accept the prayer which should be made to the trial court.

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