

LT. Col. S. J. Chaudhary

Vs

State (Delhi Administration)

Criminal Miscellaneous Petition No. 286 of 1984 in Special Leave petition

(O. Chinnappa Reddy, E. S. Venkataramiah, R. B. Misra JJ)

17.01.1984

ORDER

1. By an order dated December 2, 1983, this Court while dismissing a petition for special leave to appeal filed against an order of the Delhi High Court refusing to grant bail to the petitioner until after examination of Rani Chaudhary as a witness, gave a direction that on the commencement of the trial, it should proceed from day-to-day. Alleging that his two Advocates are not prepared to appear in the case from day-to-day as the trial is likely to be prolonged, the petitioner has filed the present application for modification of the earlier order of this Court by the deletion of the direction that the trial should proceed from day-to-day.

2. We think it is an entirely wholesome practice for the trial to go on from day-to-day. It is most expedient that the trial before the court of Session should proceed and be dealt with continuously from its inception to its finish. Now only will it result in expedition, it will also result in the elimination of manoeuvre and mischief. It will be in the interest of both the prosecution and the defence that the trial proceeds from day-to-day. It is necessary to realise that Sessions cases must not be tried piecemeal. Before commencing a trial, a Sessions Judge must satisfy himself that all necessary evidence is available. If it is not, he may postpone the case, but only on the strongest possible ground and for the shortest possible period. Once the trial commences, he should, except for a very pressing reason which makes an adjournment inevitable, proceed de die in diem until the trial is concluded.

3. We are unable to appreciate the difficulty said to be experienced by the petitioner. It is stated that his Advocate is finding it difficult to attend the court from day-to-day. It is the duty of every Advocate, who accepts the brief in a criminal case to attend the trial from day-to-day. We cannot over-stress the duty of the Advocate to attend to the trial from day-to-day. Having accepted the brief, he will be committing a breach of his professional duty, if he so fails to attend. The criminal miscellaneous petition is, therefore, dismissed.

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