

Chandu Lal Chandraker

Vs

Puran Mal and Another

Criminal Appeal No. 658 of 1987

(K.N. Singh, M.H. Kania JJ)

22.03.1988

ORDER

1. The appellant is an accused in a criminal case pending before the trial court. The trial court has dispensed with the appellant's personal appearance under Section 205 of the Code of Criminal Procedure and has permitted him to be represented at the trial through his counsel. On the conclusion of the trial the learned Magistrate directed the appellant to appear personally before the court for recording his statement as contemplated by Section 313 of the Code. The appellant's request that his statement may be recorded through his counsel was rejected by the trial court and he was directed to appear before the court. The appellant challenged the order of the Magistrate before the High Court by means of miscellaneous petition under Section 482 of the Code of Criminal Procedure. The High Court rejected the petitioner and refused to interfere with the order of the learned Magistrate. The appellant has challenged the order of the Magistrate and the High Court in the present appeal.

2. After hearing the learned counsel for the parties at some length, Mr. S. K. Puri, learned counsel appearing along with Mr. Rajinder Sachhar, stated on taking instructions, that the appellant does not want to answer any of the questions which are going to be put to him by the trial court under Section 313 of the Code of Criminal Procedure and he further states that he will not raise the question of prejudice, if any, caused to him on account of his non-examination at subsequent stage of trial, in appeal or revision. In view of this statement, we are of the opinion that it is not necessary for the appellant to appear before the trial court. We accordingly set aside the order of the trial court and High Court, directing the appellant to appear before the trial court for making statement under Section 313 of the Code of Criminal Procedure.

3. It has been brought to our notice that the trial has been pending since long, the trial court is directed to dispose of the case at an early date.

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