
(1987) 12 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 980 of 1987

Dilawar Singh and anr.

APPELLANT

Vs

State of Haryana and ors.

RESPONDENT

Date of Decision : 09-12-1987

Acts Referred:

Citation : (1988) 1 AICLR 620 : (1988) 1 CurLJ 300 : (1988) 1 RCR(Criminal) 221

Hon'ble Judges : I.S.Tiwana, J

Advocate : R.S. Tacoria, Sanjiv Pabbi, Advocates for appearing Parties

Judgement

I.S. Tiwana, J. (Oral)

1. The petitioner impugns the order of Additional Sessions Judge, Rohtak, dated 25th September, 1987, whereon he set aside the order of the trial Magistrate dated 16th July, 1987, recalling Dr. S.S. Singla, a witness for the prosecution, for purposes of his crossexamination, this doctor had been examined on behalf of the prosecution to support its case but his crossexamination was deferred in order to accommodate the counsel for the respondentaccused as he was not available on that particular date of hearing. Later, somehow this doctor did not appear even though he had been bound for the next date of hearing. It was only towards the end of the prosecution case that it came to light that the counsel for the respondent did not have the opportunity to crossexamine the doctor. The trial court, therefore, thought it proper to recall him for the said purpose. On a revision petition filed by the respondent before the Additional Sessions Judge, the said order of the trial magistrate was set aside.

2. Learned counsel for the petitioner now urges with some amount of vehemence that no revision petition was competent before the Additional Sessions Judge in view of the provisions of section 397(2), Code of Criminal Procedure, and his order has to be set aside being without jurisdiction. To sustain this stand, he firmly relies on Chander Bhan v. State of Haryana, 1975 C.L.R. 253. Having perused the judgment I find that the stand of the petitioner is wellmerited. For

the reasons recorded therein, I allow this petition and set aside the order of the Additional Sessions Judge.