

(1998) 03 RAJ CK 0073

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 105 of 1998

Kalu Singh and Others

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

Date of Decision : 18-03-1998

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 2, 24
Penal Code, 1860 (IPC) — Section 302, 34, 341
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 15, 3

Citation : (1998) 4 RCR(Criminal) 95 : (1998) 2 RLW 1070 : (1998) 3 WLC
117 : (1998) 1 WLN 278

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—This revision petition is filed against impugned order dated 19.1.1998 passed by the Learned Special Judge SC./ST (Prevention of Atrocities) Cases, Pali in sessions case No. 25/1997 dismissing the application filed by the accused challenging the order dated 14.7.1997 passed by the Distt. Collector, Pali, appointing Shri Arjun Singh as Special Public Prosecutor. From the order of the learned Collector it appears that considering the gravity of offence committed by the accused in broad day-light the Collector has appointed Shri Arjun Singh as Special Public Prosecutor to prosecute the sessions case before the Trial Judge. The accused are charged with the offences under Sections 302/34, 341 I PC and Section 3(2)(5) of S.C./S.T. Act.

2. Learned Counsel Shri Garg for the petitioner accused vehemently submitted that the impugned order dated 14th July, 1997 passed by Distt. Collector, Pali is wholly without jurisdiction, illegal and against the provisions of Section 15 of the SC/ST Act. Section 15 of the SC/ST Act is reproduced hereunder:

Section 15. Special Public Prosecutor: For every Special Court, the State

Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

3. The appointment of Special Public Prosecutor for any case or case or class or cases is made by the State Govt. u/s 2(8) Cr. P.C. which reads as under:

Section 24(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, A person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor.

4. This very contention was raised by the accused-before the learned Trial Judge, who rejected the same by his impugned order dated 19.1.1998. The learned Judge has observed in para 5 of his Judgment that, "It is true that Shri Arjun Singh has been appointed as Special Public Prosecutor in his Court to conduct the SC-ST Cases. But, in this case the learned Distt. Collector, who is also the representative of the State Government, through him the appointment of Shri Arjun Singh as a Special Public Prosecutor to prosecute this case was made by the State Government through the notification."

5. Mr Garg has submitted that the impugned order dated 14th July, 1997 passed by the learned Collector, Pali appointing Shri Arjun Singh as Special Public Prosecutor does not refer to any notification issued by the State Govt. he submitted that Shri Arjun Singh was appointed as Public Prosecutor for conducting sessions cases and not SC-ST cases. It is true that the impugned order passed by the learned Collector does not refer to any notification issued by the State Govt., but that itself would not be sufficient. There is no reason to doubt the statement made before the Court that the appointment of Shri Arjun Singh was made in pursuance to the notification issued by the State Govt. The appointment of Shri Arjun Singh as a Public Prosecutor to conduct the sessions cases would be of much importance when he has been appointed as Special Public Prosecutor to conduct this SC-ST Case. In fact, it is a pleasure of the Govt. to appoint any one as a Special Public Prosecutor. Doctrine of Pleasure would be applicable in such cases. The appointment of anyone as Special Public Prosecutor cannot be questioned or challenged on such grounds therefore, this submission of Mr. Garg is also rejected.

6. Before parting with the Judgment. I must state that I have not gone into the question of maintainability of the revision petition against the impugned order passed by the learned Trial Judge. Though, I was more than convinced that such an order is an interlocutory order and against which no revision lies. In any case, looking to the importance of the case and the important question involved in this case, I decided the question raised in this revision petition against the petitioner, so that trial cannot be delayed. The Trial Court is now directed to proceed further with the case at the earliest.

7. Accordingly, this revision petition fails and is hereby dismissed.