

---

**(2005) 02 MP CK 0053**  
**In the Madhya Pradesh High Court**  
**Case No : Criminal Revision No. 159 of 2005**

Ram Kishan

APPELLANT

Vs

State

RESPONDENT

---

**Date of Decision :** 09-02-2005

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 303, 397, 401

**Citation :** (2005) 4 MPHT 112

**Hon'ble Judges :** U.C Maheshwari, J

**Bench :** Single Bench

**Advocate :** Santosh Kumar Singh, for the Appellant; J.K. Jain, Government Advocate, for the Respondent

**Final Decision :** Allowed

---

## Judgement

U.C. Maheshwari, J.—Being aggrieved by the order dated 7-10-2004, passed by First Additional Sessions Judge, Sidhi in Sessions Trial No. 73/2004 whereby the present applicant has been refused for a permission to contest his criminal case by the Counsel of his choice, hence, this revision has been preferred u/s 397/401, Criminal Procedure Code.

2. After perusing the impugned order, I am of the view, that this order deserves to be set aside.

3. Applicant engaged a Counsel namely, Brajesh Kishore Pandey to defend his case. Earlier, he was defended by a Counsel appointed by Legal Aid Committee. The prayer to engage the Counsel to defend the case was made from jail where the applicant is kept in judicial custody. By passing the impugned order the permission was rejected while the permission should have been given by the Trial Court in view of the provisions of Section 303 of Code of Criminal Procedure, which says as under :

"Right of person against whom proceedings are instituted to be defended.

Section 303. Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice."

4. In view of the abovesaid provisions any accused of an offence before a Criminal Court has a right to defend his case by a pleader of his choice, so, apparently the error of jurisdiction has been committed by the Trial Court. Therefore, this revision petition is allowed and by setting aside the impugned order, the Counsel proposed by the applicant is permitted to defend the case on behalf of the applicant. Revision petition is allowed.