
(2005) 02 RAJ CK 0021

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 46 of 2005

Shaitan Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 03-02-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 315

Citation : (2005) 2 RCR(Criminal) 516 : (2005) 1 RLW 587 : (2005) WLC 215

Hon'ble Judges : Khem Chand Sharma, J

Bench : Single Bench

Advocate : Ratan Kaushik, for the Appellant; Ashvini Kumar Sharma, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

K.C. Sharma, J.—Heard counsel for the parties and perused the impugned order.

2. The accused petitioner filed an application u/s 315 Cr.P.C. before the Trial Court praying therein that he may be permitted to examine himself as a witness in his defence. The learned Magistrate vide its impugned order dismissed the petitioner's application on the ground that the matter is already fixed for judgment and that accused himself is not present.

3. Section 315 Cr.P.C. entitles an accused to make an application for getting himself examined as a witness in his defence and to give evidence on oath in disproof of the charge made against him. Thus an accused has a right to give evidence on oath in disproof of the charge. I fail to see why the Trial Court declined the prayer of the accused petitioner to give evidence on oath, only on the ground that case was fixed for judgment. Section 315 Cr.P.C. does not create any bar to make such a request at a particular stage of the case. In my view, if the petitioner is permitted to appear as a witness and give his evidence on oath as a witness in his defence would not cause any prejudice to the complainant, inasmuch as the complainant would get an opportunity to cross examine the

accused.

4. In the result, this petition is allowed. The impugned order of the Trial Court is set aside and the petitioner is permitted to examine himself as a witness and to give evidence on oath in disproof of the charge/s made against him by the complainant.