
(1997) 10 RAJ CK 0033

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 518 of 1997

Shyam Sunder and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 20-10-1997

Acts Referred:

Penal Code, 1860 (IPC) — Section 323

Citation : (1997) 2 WLN 549

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

Bench : Single Bench

Final Decision : Allowed

Judgement

B.J. Shethna, J.—Admit. Issue notice to the other side.

2. Learned Public Prosecutor accepts notice for the State of Rajasthan.

3. Heard learned Counsel for the parties.

4. Learned Magistrate by his impugned order dated 8.11.1996 dismissed the application filed by the petitioner accused to drop the proceedings in view the Apex Court's judgment in common cause case reported in ? 1996 SC 1619; only on the ground that after the trial is commenced, the case cannot be dropped. This view of the learned Magistrate is wholly erroneous.

5. The case u/s 323, IPC, which is of a trivial nature, if is pending against the petitioner accused since 1988. It is a case of protracted trial which cannot be allowed to be continued in view of the peculiar facts and circumstances of the case. In view of the above, this petition is allowed. The impugned order dated November 8, 1996 passed by the learned Magistrate rejecting the application to drop the proceedings is set aside and the proceedings pending before the Court of Judicial Magistrate, Chirawa in Cr. Case No. 49/89 is hereby quashed.

6. The petition is allowed accordingly.