
(1991) 07 OHC CK 0048
In the Orissa High Court
Case No : Criminal Revision. No. 74 of 1988

Shyama Sundar Sahu and Another	Vs	APPELLANT
The State of Orissa and Another		RESPONDENT

Date of Decision : 19-07-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202(2)

Citation : (1991) 2 OLR 243

Hon'ble Judges : A. Pasayat, J

Bench : Single Bench

Advocate : G. Tripathy, R.K. Nayak, R.N. Das Mohapatra and R.N. Sahoo, for the Appellant; Madhabananda Das, M.M. Das and M.D. Pradhan, for the Respondent

Judgement

A. Pasayat, J.—The only point involved in this revision application is whether requirements of proviso to Sub-section (2) of Sec 202 of the Code of Criminal Procedure, 1973 (in short "the Code") were complied with.

2. Main plank of argument of the learned counsel for the petitioners is that all witnesses named in the complaint petition were not examined and even the complainant himself who is the principal witness was not examined. According to him, such non-examination's vitiated the entire proceeding.

3. Similar contentions were raised in Criminal Revision No. 656 of 1987 (Shankar Roul v. Rumakanta Swain and Anr.) disposed of on 1-7-1991 where I have dealt with similar submissions.

4. "All witnesses" means those whom the complainant chooses to examine. If any witness named in the complaint petition is not examined the complainant has to intimate the Court, that he does not want to examine the said witness. This view has been expressed by me in Shankar Roul's case (supra), and in 1988 (II) OLR 288 ; Jaladhar Das and Ors. v. Sridhar Das.

5. Deciding the question whether complainant is to be himself examined, it has been held that his examination is mandated. Therefore , non-examination was

not in order. However, as observed by this . Court in Shankar Rout's case (supra), an opportunity to the complainant to examine himself should be given. Allegations made being serious in nature, such course would be proper. He shall also intimate the Court about the witnesses whom he does not want to examine. After examination of the complainant, the learned Subdivisional Judicial Magistrate shall proceed with the matter in accordance with law.

The revision application is disposed of.