

2022 LiveLaw (SC) 826

IN THE SUPREME COURT OF INDIA
AJAY RASTOGI; J., C.T. RAVIKUMAR; J.
SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 8905/2022; 30-09-2022
MUKESH SINGH versus THE STATE OF UTTAR PRADESH & ANR.

Code of Criminal Procedure, 1973; Section 309 - Examination-in-chief followed with cross-examination is to be recorded either on the same day or on the day following. In other words, there should not be any ground for adjournment in recording the examination-in-chief/cross-examination of the prosecution witness, as the case may be. Referred Vinod Kumar v. State of Punjab, (2015) 3 SCC 220

(Arising out of impugned final judgment and order dated 05-03-2022 in CRMBA No. 1156/2022 passed by the High Court of Judicature at Allahabad)

For Petitioner(s) Mr. Bhuwan Raj, AOR Ms. Manju Savita, Adv. Mr. M.A. Alim Majid, Adv. Mr. Anubhav Mehrotra, Adv.

ORDER

Permission to file special leave petitions is granted.

The present special leave petitions have been filed for quashing of the bail granted to respondent no. 2 in both the petitions who are facing trial for offences under Sections 302, 324, 504 and 506 IPC. Learned counsel for the petitioner informs this Court that there are three eye-witnesses as per the calendar of witnesses and charge sheet has been filed and statement of PW-1 by this time has been recorded which took almost three months to conclude. So far as statement of PW-2 is concerned, part of the examination-in-chief was recorded on 21.09.2022 and despite request been made the mandate of Section 309 Cr.P.C. is not being followed which has been considered by this Court in "**Vinod Kumar versus State of Punjab, (2015) 3 SCC 220**". The mandate of law itself postulate that examination-in-chief followed with cross-examination is to be recorded either on the same day or on the day following. In other words, there should not be any ground for adjournment in recording the examination-in-chief/cross-examination of the prosecution witness, as the case may be.

We do not want to dilate at this stage since the trial is pending but we would like to observe that the learned trial judge may take a note of the judgment of this Court in reference to Section 309 Cr.P.C. and not only expedite the trial but the examination-in-chief/cross-examination is to be recorded either on the same day or on the day following but no long adjournment should be granted while recording the statement of prosecution witnesses.

List after six weeks.

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