

S.B. Criminal Misc. Petition No. 747/2006.
(Shiv Singh @ Siddahnath Vs. State of Rajasthan)

Date of order :: 06.06.2006.

HON'BLE MR.JUSTICE DINESH MAHESHWARI, VJ.

Mr. G.M. Khan, for the petitioner.

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This petition under Section 482 of the Code of Criminal Procedure (for short 'the Code') is sought to be maintained by the accused petitioner, facing trial for offences under Sections 302 IPC and 3/25 Arms Act, against the order dated 01.06.2006 passed by the Additional Sessions Judge (Fast Track) No.1, Pali Headquarter Jaitaran rejecting his application under Section 310 of the Code.

By way of the application aforesaid, the petitioner contended before the learned trial court that the signatures of the witnesses on recovery memo do not tally with their other signatures; and that the site plan of the alleged place of recovery of the gun is also not correct. The petitioner submitted that the alleged recovery of the fire-arm from the place sought to be suggested is seriously in doubt and, therefore, prayed that the trial court may inspect the place of alleged recovery. The learned trial court observed that regarding the place of recovery, extensive cross-examination has been carried out and the accused would be having ample opportunity to defend himself and the case was already fixed for recording the statement of the

accused. The learned trial court was of opinion that for the purpose of appreciation of evidence in this case, site inspection was not requisite and accordingly rejected the application by the impugned order dated 01.06.2006.

Having heard learned counsel for the petitioner and having examined the considerations adopted by the learned trial court, this Court is clearly of opinion that the order impugned has been passed on relevant considerations and it neither results in failure of justice nor causes any prejudice to the petitioner and does not call for any interference under Section 482 of the Code.

The learned trial court, after examination of record, has observed that for the purpose of appreciation of evidence in this case, the site inspection did not appear necessary. It is essentially within the jurisdiction of the trial court to consider and to inspect the site, if so considered necessary and it cannot be said that the learned trial court has committed any illegality in refusing the baseless application moved by the petitioner.

The Miscellaneous Petition is, therefore, rejected.

(DINESH MAHESHWARI), VJ.

Mohan