

(2010) 12 SHI CK 0328

High Court of Himachal Pradesh

Case No: Criminal A No. 202 of 2002

Nand Ram and Others

APPELLANT

Vs

State of H.P.

RESPONDENT

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**Date of Decision:** Dec. 20, 2010**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Forest Act, 1927 - Section 33
- Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1978 - Rule 20
- Penal Code, 1860 (IPC) - Section 120B, 379, 420, 468, 471
- Prevention of Corruption Act, 1988 - Section 5(2)

**Hon'ble Judges:** Surjit Singh, J**Bench:** Single Bench

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**Judgement**

Surjit Singh, J.

By means of this judgment, three Criminal Appeals, particulars whereof are given in the heading, are being disposed of, as all the appeals are directed against the same judgment, i.e. judgment dated 20th March, 2002, of learned Special Judge (F), Shimla.

2. These appeals have been filed by accused-convicts, who have been convicted of offences, under Sections 379, 420, 468, 471, 120-B of the Indian Penal Code, Section 33 of the Indian Forest Act, Rule 20 of the Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1978 and Section 5(2) of the Prevention of Corruption Act.

3. Case of the prosecution, which led to the conviction of the Appellants, is that three lots of Government Forest were allotted to some of the accused for felling. Those Appellants-convicts, in connivance with the staff of Forest Department, felled a large number of trees from adjoining government Forest, which were not included in the aforesaid three lots.

4. One of the grounds, on which conviction has been challenged, is that Appellants-convicts had not been afforded effective and meaningful opportunity to explain the circumstances appearing against them, in the prosecution evidence, while examining them, u/s 313 of the Code of Criminal Procedure.

5. I have been taken through the initial few questions put to one of the Appellants-convicts. Questions have been put to the Appellants-convicts starting with the testimony of the first witness and ending with the testimony of last witness and not in the sequence, the story of the prosecution is. Thus, examination, u/s 313 of the Code of Criminal Procedure, makes no head or tail and in fact this is no examination in the eyes of law.

6. Section 313 of the Code of Criminal Procedure is an enabling provision. The object is to enable the accused to explain every circumstance appearing against him, in prosecution evidence. Circumstances are required to be put in the form of separate questions, in proper sequence, and when questioning is not in proper sequence that is bound to create confusion in the mind of any person, leave alone a person standing criminal trial, who is supposed to be under stress.

7. In view of the abovestated position, appeals are accepted, judgment of the trial Court, convicting and sentencing the Appellants-convicts, is set aside and the case is remanded to the trial Court, with a direction to examine the accused-Respondents afresh, u/s 313 of the Code of Criminal Procedure, in accordance with the aforesaid observations and the requirement of law and also in such a manner that the object of the provision of Section 313 of the Code of Criminal Procedure, is achieved and thereafter to dispose of the case afresh.

Appeals stand disposed of. Parties are directed to appear before the trial Court on 6th January, 2011.