

P L D 1989 Lahore 18

Before Fazal Karim, J

MUHAMMAD BOHRA and another--Appellants

versus

THE STATE--Respondent

Criminal Appeal No.584 of 1985, decided on 19th October, 1988

(a) Criminal Procedure Code (V of 1898)--

---Ss.233, 494, 239 & 537--Penal Code (XLV of 1860), 5.302/34--

Complaint case and challan case, trial of--Trial Court after the conclusion of complainant's evidence in complaint case, did not summon prosecution witnesses in challan case as court witnesses, but decided the case by summoning the prosecution witnesses in challan case as defence witnesses on application of accused--After conclusion of complainant's evidence in complaint case, the case was adjourned for defence evidence--Accused raised no objection, instead made application for summoning the prosecution witnesses in challan case as their defence witnesses--Examination of prosecution witnesses of challan case as defence witnesses, held, would not possibly cause any prejudice to accused's case and failure of trial Court to follow the procedure laid down in Nur Elahi's case P L D 1966 S C 706 in no way occasioned a failure of justice to accused as clarified in Zulfiqar Ali Bhutto's case P L D 1979 S C 53.

Nur Elahi v. The State P L D 1966 S C 708 and Zulfiqar Ali Bhutto v . State P L D 1,979 S C 53 ref.

(b) Criminal Procedure Code (V of 1898)--

---Ss.233, 239, 534 & 494--Challan case and complaint case relating to same occurrence with different versions--Procedure to be followed by trial Court--Impact of Nur Elahi v. State P L D 1966 S C 706 and Zulfiqar Ali Bhutto v. State P L D 1979 S C 53 on the rule of precedence in this behalf, stated.

Dr. Khalid Ranjha for Appellants. Sohail Akhtar for the State. Shaukat Rafiq Bajwa for the Complainant. Qadeer Ahmad, Siddiqi for Mansha etc.