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Prosecutor Cannot Abandon Duty To Assist Court In Desire To Secure Conviction : Supreme Court

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The Supreme Court on Monday (December 1), while overturning (<https://www.livelaw.in/supreme-court/statements-carbon-copies-generic-supreme-court-sets-aside-sentence-for-non-compliance-with-s-313-crpc-orders-re-trial-311823>) the convictions of three individuals in a murder case, raised concerns

about the conduct of public prosecutors, observing that they are expected to act independently and not function merely as a defence lawyer each time to secure convictions at all costs.

A bench of **Justices Sanjay Karol and N. Kotiswar Singh** heard the matter, where the appellants had been convicted in a murder trial despite not having been confronted with all allegations against them during their examination under Section 313 Cr.P.C. Holding that this non-compliance amounted to a serious procedural defect that undermined the fairness of the trial, the Court set aside the convictions and remanded the case to the trial court to resume proceedings from the stage of recording statements under Section 313 Cr.P.C. The Court also criticised the prosecution for its lax approach, observing that it failed to bring the procedural lapses to the trial court's notice, including that the accused's statements were generic, mechanical, and virtually identical, indicating that they had not been confronted with the full spectrum of allegations against them.

The Court said that it was the prosecution's solemn duty to keep a check over this procedural defect during the trial and assist the court in conducting the examination of the accused.

"It is equally disturbing for us to see that in the desire to secure a conviction for the accused persons, the prosecutor also let their duty of assisting the Court in conducting the examination of the accused under this section fall by the wayside. The prosecutor is an officer of the Court and holds a solemn duty to act in the interest of justice. They cannot act as a defence lawyer, but for the State, with the sole aim of making the gauntlet of punishment fall on the accused.", the court noted, referencing *Sovaran Singh Prajapati v. State of U.P* (<https://www.livelaw.in/supreme-court/supreme-court-sets-aside-death-penalty-for-lack-of-fair-trial-284144>).

Also, in *Ashok v. State of Uttar Pradesh* (<https://www.livelaw.in/supreme-court/trial-court-has-duty-to-inform-accused-of-right-to-free-legal-aid-when-accused-has-no-means-to-engage-advocate-supreme-court-277030>), 2024

LiveLaw (SC) 941 the court listed out the role of the Public Prosecutor, which also included its duty to assist the Trial Court in recording the statement of the accused under Section 313 of the CrPC.

"If the Court omits to put any material circumstance brought on record against the accused, the Public Prosecutor must bring it to the notice of the Court while the examination of the accused is being recorded. He must assist the Court in framing the questions to be put to the accused. As it is the duty of the Public Prosecutor to ensure that those who are guilty of the commission of offence must be punished, it is also his duty to ensure that there are no infirmities in the conduct of the trial which will cause prejudice to the accused;", the court held.

Cause Title: CHANDAN PASI & ORS. VERSUS THE STATE OF BIHAR

Citation : 2025 LiveLaw (SC) 1157

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