

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL REVISION CASE No.12 OF 2011

Between:-

Ravada Chandra Sekhar Rao, S/o. Raja Rao, R/o. H.No. 304, Huda Colony, Srikakulam District.

...PETITIONER

AND

The State of A P, Represented by its Public Prosecutor, High Court, Hyderabad.

...RESPONDENT

DATE OF ORDER PRONOUNCED : 14.02.2025

SUBMITTED FOR APPROVAL:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copy of Judgment may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Judgment? Yes/No

Dr. Y. LAKSHMANA RAO, J

*** THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

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...RESPONDENT

! Counsel for the Petitioners : Sri Aravala Rama Rao

^Counsel for the Respondent : Sri Neelothpal Ganji, Assistant Public Prosecutor

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> Head Note:

? Cases referred:

- 1) (2002) 6 SCC 650**
- 2) AIR 1951 SC 196**
- 3) AIR 1962 SC 1788**
- 4) AIR 1979 SC 1360**
- 5) 2000 (1) BLJR 37**

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 12/2011

ORDER:

The revision was preferred under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') against the common judgment dated 03.01.2011 passed by the learned II Additional District and Sessions Judge (Fast Track Court) Srikakulam, District in Criminal Appeal Nos.48 & 52 of 2008, which confirmed the conviction and modified the sentence from one year simple imprisonment to six months simple imprisonment. The learned Judicial Magistrate of First Class, Special Mobile Court, Srikakulam, in C.C.No.147 of 2007, dated 09.06.2008, convicted and sentenced the revisionist/accused No.2 to undergo simple imprisonment for one year and fine of Rs.1000/- (Rupees One Thousand Only) for commission of the offence punishable under Section 506 of the Indian Penal Code, 1860 (for short 'the I.P.C').

2. I have heard the arguments of learned counsel for the revisionist and the learned Assistant Public Prosecutor.

3. Sri Aravala Rama Rao, learned counsel for the revisionist submits that the learned Appellate Court and the Trial Court failed to see that there was delay in lodging the report to the police; the *de-facto* complainant bore grudge against the accused No.2 falsely implicated him; the courts below failed to see

that conviction of petitioner/accused No.2 for offence under Section 506 (1) of 'the IPC.' was not sustainable under law; the courts below failed to see that Ex.P1 report there was no specific allegations against the petitioner; the courts below ought to have drawn adverse inference against the case of the prosecution for suppression of the original report of P.W-1; the courts below failed to see that the evidence of P.W-1 as he stated that entire incident taken place at about 3:00 PM on 05.02.2006 as informed by P.W-2 and L.W-4; the presence of the petitioner/accused No.2 not elucidated in the evidence of P.W-1 or other prosecution witness; the courts below failed see that the presence of the petitioner/accused not disclosed and not elicited in the evidence of the P.W-1 and P.W-2; the court below failed to see that the prosecution did not place any independent witness; the Courts below failed to see that in the charge sheet the accused No.1 along with accused came to the District Court premises and abused L.W-2 to 6 and also threatened them, but no prosecution witness deposed about the said threatening by petitioner/accused No.2; the learned Appellate Court failed to see that the Trial Court held that there was no case made out under Section 294 of 'the IPC.'; the Courts below failed to see that the prosecution failed to establish the ingredients of Section 506 of 'the IPC.'. The ingredients of Section 506 (1) of 'the IPC.' not attract; the Courts below convicted the petitioner merely on assumptions and presumption, there was no evidence on record; the learned Appellate Court did not appreciate the evidence on record; the Courts below

failed to see that the evidence of P.W-1 to 3 that accused No.1 was behaving indecently. Therefore, the petitioner did not commit any offence; the evidence of P.W-1 to 3 had not corroborated with the other witness. Therefore, the conviction and sentence of imprisonment and fine for the alleged offence under Section 506(1) of 'the I.P.C.' is unsustainable against the revisionist and requested to set aside the judgment impugned.

4. Sri Neelothpal Ganji, the learned Assistant Public Prosecutor submitted that the learned Appellate Court and the Trial Court had rightly appreciated the evidence and came to correct conclusion that the prosecution proved the guilt of the revisionist beyond all reasonable doubt and urged to dismiss the revision as neither material irregularity was shown and established nor perverse findings were given by the learned Courts below.

5. Thoughtful consideration is bestowed on the arguments advanced. I have perused the material on record.

6. Now the point for consideration is:

Whether the judgment in Crl.A.No.52 of 2008 dated 03.01.2011, passed by the learned II Additional District and Sessions Judge (Fast Track Court) Srikakulam, District, is correct, legal, and proper with respect to its finding, sentence, or judgment, and there are any material irregularities? And to what relief?

7. It is apposite to refer the Hon'ble Apex Court in **Bindeshwari Prasad Singh v State of Bihar**¹ wherein at Paragraph Nos.12 & 13 it is held as under:

¹(2002) 6 SCC 650

“12. ... We have carefully considered the material on record and we are satisfied that the High Court was not justified in re-appreciating the evidence on record and coming to a different conclusion in a revision preferred by the information under Section 401 of the Code of Criminal Procedure, Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional Court, prohibiting it from convert a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of the conviction directly, it could not do so indirectly by the method of ordering a re-trial. It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice. The High Court will not be justified in interfering with an order of acquittal merely because the trial Court has taken a wrong view of the law or has erred in appreciation of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private party.

13. ... In the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction. It has repeatedly been held that the High Court should not re-appreciate the evidence to reach a finding different from the trial Court. In the absence of manifest illegality resulting in grave miscarriage of justice, exercise of revisional jurisdiction in such cases is not warranted.”

8. The Hon’ble Supreme Court in **D Stephens v Nosibolla**² at Paragraph No.10 held as under:

“The revisional jurisdiction conferred on the High Court under S. 439, Cr.P.C., is not to be lightly exercised, when it is invoked by a private complainant against an order of acquittal, against which the Govt. has a right of appeal under S. 417. It could be exercised only in exceptional cases where the interests of public justice require interference for the correction of a manifest illegality, or the prevention of a gross miscarriage of justice. This jurisdiction is not ordinarily invoked or used merely because the lower court

² AIR 1951 SC 196

has taken a wrong view of the law or mis-appreciated the evidence on record.”

9. The Hon’ble Apex Court in **K Chinnaswamy Reddy v State of AP**³, at Paragraph No.7 held as under:

“7. It is true that it is open to a High Court in revision to set aside an order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal; but this jurisdiction should in our opinion be exercised by the High Court only in exceptional cases, when there is some glaring defect in the procedure or there is a manifest error on a point of law and consequently there has been a flagrant miscarriage of justice. Sub-section (4) of S. 439 forbids a High Court from converting a finding of acquittal into one of conviction and that makes it all the more incumbent on the High Court to see that it does not, convert the finding of acquittal into one of conviction by the indirect method of ordering retrial when it cannot itself directly convert a finding of acquittal into a finding of conviction. This places limitations on the power of the High Court to set aside a finding of acquittal in revision and it is only in exceptional cases that this power should be exercised. It is not possible to lay down the criteria for determining such exceptional cases which would cover all contingencies. We may, however, indicate some cases of this kind which would in our opinion justify the High Court in interfering with a finding of acquittal in revision. These cases may be: where the trial court has no jurisdiction to try the case but has still acquitted the accused, or where the trial court has wrongly shut out evidence which the prosecution wished to produce. or where the appeal court has wrongly held evidence which was admitted by the trial court to be inadmissible, or where material evidence has been overlooked either by the trial court or by the appeal court, or where the acquittal is based on a compounding of the offence, which is invalid under the law. These and other cases of similar nature can properly be held to be cases of exceptional nature, where the High Court can justifiably interfere with an order of acquittal; an in such a case it is obvious that it cannot be said that the High Court was doing indirectly what it could not do directly in view of the provisions of S. 439 (4). We have, therefore, to see whether the order of the High Court setting aside the order of acquittal in this case can be upheld on these principles.”

10. P.W-1 testified that on 05.03.2006 at about 5:30 and 6:00 PM he along with P.Ws-2 and 3 and L.W-4 to 6, who are all Process Servers of District

³ AIR 1962 SC 1788

Court, Srikakulam, were present in the District Courts building. The revisionist and the accused No.1/Ambbothula Rammohanarao, came on their bike along with two others to the District Court premises. The revisionist stated that he was a press reporter and questioned the authority of P.W-1 and also questioned the activities of the accused No.1 in the morning time. P.W-2 and P.W-3 stated in their testimony in similar lines to P.W-1.

11. P.W-2 and P.W-3 deposed that the revisionist and other accused had threatened them with dire consequences in the Court premises. The evidence of P.Ws-1 to 3 is corroborating in material particulars. Nothing concrete was elicited from the evidence of the prosecution witnesses to spurn their evidence that they were speaking falsehood. There was no misreading of the evidence. The findings of the learned Courts below are not perverse. There was no material irregularity in the procedure adopted by the learned Courts below.

12. The prosecution proved the guilt of the accused beyond all reasonable doubt under Section 506 of 'the I.P.C.' Therefore, the learned Trial Court rightly convicted the revisionist. Similarly, the learned Appellate Court also confirmed the same. Re-appreciation of evidence is not possible in the revision case as laid down in the decisions in ***Bindeshwari Prasad Singh, D Stephens and K Chinnaswamy Reddy***.

13. Section 506 of 'the I.P.C.,' provides discretion to the Court either to impose sentence which may extend to two years or with a fine or both. The learned Assistant Public Prosecutor conceded that there were neither prior nor

subsequent adverse antecedents against the revisionist that he had committed a similar offence. The revisionist was aged about 27 years at the time of commission of the offence. He was a reporter. The revision was filed in the year 2011. Nearly 14 years passed by. The right to speedy trial is a fundamental right as per the decision of the Hon'ble Supreme Court in **Hussainara Khatoon (IV) v. Home Secretary State of Bihar**⁴. This right includes speedy disposal of appeals. In addition to the appeals, the right to a speedy trial also includes criminal revisions as per the decision of the Hon'ble Apex Court in **Rajdeo Sharma v. State of Bihar**⁵. In the facts and circumstances of the case interest of justice would be sub-served, if some lenient view is taken while imposing the sentence of imprisonment on the revisionist.

14. Accordingly, the Criminal Revision Case is disposed of. The sentence of simple imprisonment for six months imposed by the learned II Additional District & Sessions Judge (FTC) Srikakulam is modified into the sentence already undergone and the payment of fine of Rs.1000/- is enhanced to Rs.5,000/- (Rupees Five Thousand Only), which excludes the payment of fine of Rs.1,000/- (Rupees One Thousand Only) paid by the revisionist. In default the payment of the fine Rs.5,000/- (Rupees Five Thousand Only) the revisionist shall undergo three months of simple imprisonment. No order as to costs.

⁴ AIR 1979 SC 1360

⁵ 2000 (1) BLJR 37

As a sequel, interlocutory applications, if any pending, shall stand closed.

Dr. Y. LAKSHMANA RAO, J

Dt: 14.02.2025

Note: **LR** copy to be marked
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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE No: 12/2011

14.02.2025

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