APHC010320712019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3521]**
(Special Original Jurisdiction)

TUESDAY, THE 15th DAY OF SEPTEMBER 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 1062/2019

Between:

1. V.JAYACHANDRA NAIDU, S/O GOTTIPATI VENKATRAMANA, AGED ABOUT 60 YEARS, RTD EMPLOYEE IN APSRTC, R/O D.NO. 17/341. RAJEEV NAGAR, MADANAPALLE, CHITTOOR DISTRICT.

...PETITIONER

AND

1. STATE OF AP, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI.
2. SMT C KUSUMA KUMARI, (DIED)
3. NARAMSETTY CHANUKYA, S/O LATE KRISHNA MURTHY, AGED ABOUT 25 YEARS, R/O D.NO. 3/152, GOLLAPALLE RING ROAD, MADANAPALLE, CHITTOOR DISTRICT.

...RESPONDENT(S):

Counsel for the Petitioner:

1. T V JAGGI REDDY

Counsel for the Respondent(S):

1. PUBLIC PROSECUTOR (AP)
2. I.M.S PRAKASH

The Court made the following:

ORDER:

Notice to respondent No.3 was sent, but it was returned with an endorsement stating "addressee left without instructions".

2. Mr.I.M.S.Prakash, learned Counsel, is appointed as Legal Aid Counsel for Respondent No.3. The Secretary, High Court Legal Services Committee, is directed to issue necessary proceedings in this regard.

3. Heard the learned counsel for the petitioner, the learned Assistant Public Prosecutor and the learned Legal Aid Counsel for respondent No.3.

4. The Criminal Revision Case has been filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.') questioning the judgment passed in Crl.A.No.254 of 2017 dated 22.08.2019 on the file of the learned II Additional District Judge, Madanapalle, Chittoor District, by dismissing the Criminal Appeal for default.

5. The Hon'ble Apex Court in ***Khaili v. State of U.P***[1] at para No.1 held as under:

> *1. "…But even though the fees and expenses were not paid, the Advocate should not, in our opinion, have refused to argue the case. It must be remembered by every advocate that he owes a duty to the court, particularly in a criminal case involving the liberty of the citizen, and even if he has not been paid his fees or expenses, he must argue the case and assist the court in reaching the correct decision. We can appreciate a situation where an advocate may be unable to argue the case in the absence of instructions from the client, but non-receipt of fees and expenses can never be a ground for refusing to argue the case. The learned Advocate in the present case, however, refused to argue the case and consequently the learned Judge went through the record of the case and decided the appeal. Now one thing is clear that howsoever diligent the learned Judge might have been and however careful and anxious to protect the interests of the appellants, his effort could not take the place of an argument by an advocate appearing on behalf of the appellants. We think that in a case such as this, what the learned Judge should have done was to appoint an advocate amicus curiae and then proceed to dispose of the appeal on merits".*

[1] Criminal Appeal No. 137 of 1980 dt. 18.2.1980

6. In ***Mangat Singh v. State of Punjab***[2], it is held at para No.2 as under:

> *"2. It is unfortunate that the counsel had not appeared in the High Court in a case of appeal of conviction under Section 302 IPC. The question of accountability of the advocate looms large in a case of this nature. However, the High Court could have appointed an amicus curiae to assist the Court rather than relying on the assistance of the learned counsel for the State. No doubt, the High Court had considered the matter elaborately. However, it is no substitute for the judgment rendered after hearing the counsel especially in a case in which the appellant is convicted under Section 302 IPC and sentenced to life imprisonment. Learned counsel appearing for the appellant has drawn our attention to the observations in the decision of this Court in Khaili v. State of U.P. We are, therefore, constrained to set aside the a impugned judgment and remit the matter to the High Court for fresh disposal expeditiously after appointing an advocate as amicus curie."*

7. In ***Shankar v. State of Maharashtra***[3], it is held that at para No.5 as under:

> *"5. When the accused has preferred the appeal against the conviction, the appeal can be disposed of on merits only after hearing the appellant or his counsel. When there was no representation for the appellant, in our considered view, the High Court ought not to have disposed of the case on merits. It was held in* ***2005 (11) SCC 185 titled Mangat Singh v. State of Punjab*** *that where the advocate for the appellant is absent on the date of hearing, the Court shall either appoint an amicus curiae and then decide the appeal. Once the appeal against the conviction is admitted, it is the duty of the Appellate Court either to appoint an advocate as amicus curiae or to nominate a counsel through Legal Services Authority and hear the matter on merits and then dispose of the appeal. When the appellant was not represented by the advocate, in our view, the High Court ought not to have decided the matter on merits and the impugned order is liable to be set aside and the matter is remitted back to the High Court. The High Court shall restore the Criminal Appeal No. 296 of 2014 and afford sufficient opportunity to the appellant and proceed with the matter in accordance with law. In case, if the appellant is still not represented, we request the High Court to nominate a counsel for the appellant through the Legal Services Authority and proceed with the matter. Since the appellant is said to have undergone more than twelve years of imprisonment and since the Criminal Appeal No.296/2014 is remitted back to the High Court, the sentence of imprisonment imposed upon the appellant is ordered to be suspended and the appellant is ordered to be released on the condition that he should execute bail bond for a sum of L 10,000/- with two sureties for a like sum each to the satisfaction of the committal Court. The High Court shall proceed with the Criminal Appeal in accordance with law."*

8. The Criminal Appeal cannot be dismissed for non-prosecution. The learned Appellate Court ought to have appointed Legal Aid Counsel for the

---

[2] 2005 (11) SCC 185
[3] 2019 (2) ALT (CRI.) (SC) 460 (D.B).

petitioner/accused when his counsel did not make his appearance and submit the arguments.

9. Having regard to the facts and circumstances of the case, the judgment dated 22.08.2019 passed in Crl.A.No.254 of 2017 on the file of the learned II Additional District Judge, Madanapalle, Chittoor District, is hereby set aside. The learned Appellate Court, i.e., the learned II Additional District Judge, Madanapalle, Chittoor District, is directed to take up the Criminal Appeal No.254 of 2017 on record and dispose of the same by affording sufficient opportunity to the parties, without dismissing the appeal for non-prosecution or default.

10. Hence, the Criminal Revision Case is allowed. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

DR. Y. LAKSHMANA RAO, J

Date: 15.09.2026
BMS