APHC010336472019

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

WEDNESDAY, THE 19th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 1185/2019

Between:

1. KAMMUKUTI ARUNA,, W/O. SURIBABU, AGED 52 YEARS, OCC HOUSE WIFE, R/O. D.NO. 28-1-719, 1ST STREET, MARUTHI NAGAR, NELLORE

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP BY PUBLIC PROSECUTOR, HIGH COURT BUILDINGS, AMARAVATI. GUNTUR DISTRICT, A.P.
2. KAMMUKUTI SRIDEVI, W/O. SURIBABU, AGED 52 YEARS, R/O. VENUGOPAL NAGAR, MYPADU ROAD, NELLORE.
3. KAMMUKUTI NAGABHUSHANAM, S/O. SURIBABU, AGED 32 YEARS, R/O. VENUGOPAL NAGAR, MYPADU ROAD, NELLORE.
4. CHITTAMURU SRINIVASULU SEENAIAH, S/O. RAMANAIAH, AGED 43 YEARS, R/O. VENUGOPAL NAGAR, MYPADU ROAD, NELLORE
5. CHITTAMURI NARASIMHA, S/O. VENKATA SUBBAIAH, AGED 53 YEARS, R/O. VENUGOPAL NAGAR, MYPADU ROAD, NELLORE
6. CHITTAMURU SUJATHA, W/O. NARASIMHA, AGED 41 YEARS, R/O. VENUGOPAL NAGAR, MYPADU ROAD, NELLORE.

...RESPONDENT(S):

Counsel for the Petitioner:

1. D DORABABU

Counsel for the Respondent(S):

1. D PURNACHANDRA REDDY
2. PUBLIC PROSECUTOR (AP)

The Court made the following:

ORDER:

Criminal Revision Case has been filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.'), challenging the judgment dated 09.07.2019 in Crl.A.No.188 of 2017, passed by the learned III Additional District and Sessions Judge, Nellore, confirming the judgment dated 21.02.2017 in C.C.No.105 of 2013 on the file of the Special Judicial Magistrate of First Class for Trial of Prohibition and Excise Offences, Nellore.

2. Mr.D.Dorababu, the learned legal aid counsel for the Petitioner/de-facto complainant reiterated the grounds urged in the revision and contended that the evidence of the prosecution witnesses was not properly appreciated either by the learned Trial Court or by the learned Appellate Court, and that both Courts erred in holding that the charges were not proved.

3. Sri D.Purnachandra Reddy, the learned counsel for Respondent Nos.2 to 6, as well as Mr.A.Sai Rohith, the learned Assistant Public Prosecutor, submitted that this Court, while exercising powers under Sections 397 and 401 of 'the Cr.P.C.', cannot re-appreciate the evidence as if sitting in appeal.

They contended that there are no merits in the revision and urged to dismiss the Criminal Revision Case.

4. Thoughtful consideration is bestowed on the arguments advanced by the learned legal aid Counsel for the Petitioner, the learned counsel for the Respondent Nos.2 to 6 and the learned Assistant Public Prosecutor. I have perused the entire record.

5. Now the point for consideration is:

> *"Whether the judgment in Crl.A.No.188 of 2017 dated 09.07.2019, passed by the learned III Additional District and Sessions Judge, Nellore, is correct, legal, and proper with respect to its finding, sentence, or judgment, and there are any material irregularities? and to what relief?"*

6. On perusal of the record, the prosecution examined as many as seven witnesses. The learned Trial Court acquitted Respondent Nos.2 to 6 of the charges under Sections 448, 427, and 323 read with 34 of the Indian Penal Code, 1860[1]. The learned Trial Court did not believe the prosecution evidence and acquitted the accused. The learned Appellate Court concurred with the findings of the learned Trial Court and confirmed the acquittal.

7. While deciding a Criminal Revision Case filed against acquittal of accused, it is apposite to refer the Hon'ble Apex Court in **Bindeshwari Prasad Singh v State of Bihar**[2] wherein at Paragraph No.13 it is held as under:

> *"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*

[1] 'the I.P.C'
[2] (2002) 6 SCC 650

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**[3] 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 o 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 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**[4], 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

[3]AIR 1951 SC 196
[4]AIR 1962 SC 1788

> *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. Keeping in view of all the principles laid down in the judgments referred *supra,* I shall proceed to decide this Revision Case without there being any *iota* of re-appreciation of evidence by sitting like a Second Appellate Court. Therefore, appreciation of the evidence is not practically possible and feasible.

11. This Court does not find any material irregularity, illegality, or miscarriage of justice in the judgments of the Courts below. The learned Appellate Court has rightly appreciated the evidence of the prosecution witnesses and the findings recorded by the learned Trial Court, and accordingly confirmed the acquittal of Respondent Nos.2 to 6. This Court finds no merit in the revision. Hence, it is liable to be dismissed.

12. In the result, the Criminal Revision Case is dismissed. There shall be no order as to costs.

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

Dr. Y. LAKSHMANA RAO, J

Dt: 19.08.2026
PRA

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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 1185/2019

Date: 19.08.2026
PRA