

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

CRIMINAL APPEAL NO.1419 OF 2010

J U D G M E N T

(per Hon'ble Sri Justice Sanjay Kumar)

This appeal by the victim was preferred under Section 372 CrPC aggrieved by the acquittal of the accused under Section 302 IPC by the learned I Additional Sessions Judge, Mahabubnagar, in Sessions Case No.315 of 2008, *vide* judgment dated 30.06.2010.

The learned Public Prosecutor, State of Telangana, however raised an objection as to the maintainability of this appeal in terms of the insertion of Section 2(wa) in the Code of Criminal Procedure, 1973, in relation to the definition of a 'victim' and the amendment to Section 372 CrPC, whereby a proviso was inserted entitling such a victim to prefer an appeal against an order of acquittal, being prospective in nature. The learned Public Prosecutor would point out that the alleged offence which formed the basis of Sessions Case No.315 of 2008 on the file of the learned I Additional Sessions Judge, Mahabubnagar, took place on 14.01.2008, whereas the aforestated amendments to the Code of Criminal Procedure, 1973 were given effect from 31.12.2009, *vide* Notification No.S.O.3313(E) dated 30.12.2009.

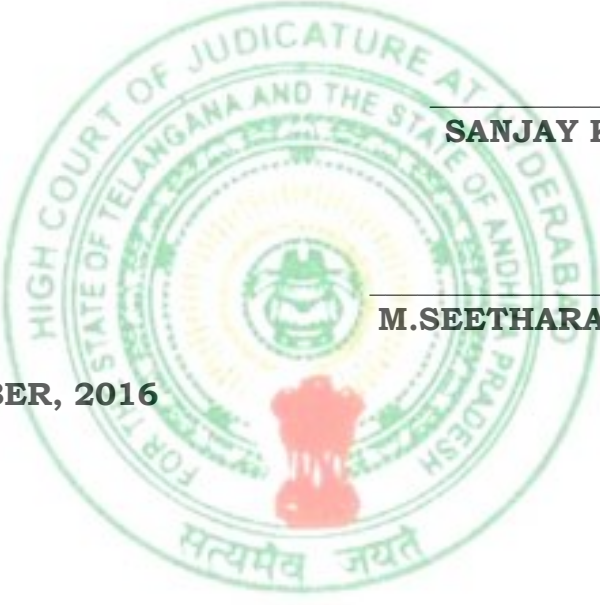
Dealing with the aforestated amendments, the Supreme Court in ***NATIONAL COMMISSION FOR WOMEN V/s. STATE OF DELHI***¹ opined that the proviso to Section 372 CrPC would not come to the aid of a victim who seeks to file an appeal thereunder in relation to an incident long prior to the insertion of the proviso. This legal

¹ 2010 (1) SCALE 17

position was reiterated by a Division Bench of this Court in ***D.SUDHAKAR V/s. PANAPU SREENIVASULU @ EVONE WATER SREENIVASULU***².

In that view of the matter, the victim in the present case could not have taken recourse to the proviso under Section 372 CrPC which was inserted long after the alleged incident which formed the basis of the criminal proceedings.

The appeal is accordingly dismissed on this short ground leaving it open to the appellant/victim to work out her remedies in accordance with law.



SANJAY KUMAR, J

M.SEETHARAMA MURTI, J

19th SEPTEMBER, 2016

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² 2013 (1) ALD (CrI.) 366 (AP)