

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.R.C.No.1134 of 2005

JUDGMENT:

This revision is filed under Sections 397 (1) read with 401 Cr.P.C questioning the propriety, legality and regularity of the judgment, dated 23.07.2001 in S.C.No.540 of 1999 passed by the Additional Sessions Judge, Nizamabad acquitting the accused for the offence punishable under Section 302 read with 34 IPC

However, it is brought to the notice of this Court that the State also filed Criminal Appeal No.234 of 2006, which was ended in dismissal on 07.02.2008 and the same has attained finality.

The jurisdiction of this Court under Section 401 Cr.P.C is limited when the Courts below acquitted the accused, this Court normally would not interfere with the said findings. It is open to the High Court in revision to set aside the order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal. In the opinion of the Court and in view of law declared by the Apex Court in **Chinnaswamy Reddy v State of Andhra Pradesh**¹, the High Court can exercise its jurisdiction only in exceptional cases where there is some glaring defect in the procedure or there is a manifest error on the point of law and consequently, there has been flagrant miscarriage of justice.

In the present case on hand, the State has filed separate appeal before this Court questioning the acquittal of the accused for the offence punishable under Section 302 IPC in Crl.A.No.234 of 2006, but this Court dismissed the said appeal confirming the judgment passed by the Court below. If any order is passed by this Court setting aside the acquittal, it would amount to reviewing the judgment of this Court in Crl.A.234 of 2006 where the High Court considered the factual aspects

¹ AIR 1962 SC 1788

and recorded its findings. Therefore, I find that it is not a fit case to exercise power under Section 401 Cr.P.C. to set aside the finding of the Court below, consequently, CrI.R.C is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in the criminal revision case, shall stand closed.

M. SATYANARAYANA MURTHY J

Date: 03.08.2017
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