

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Criminal Appeal No.918 of 2011

Date: 03.07.2018

Between:

Hanumanthu Satyanarayana

... Appellant

and

State Rep. by its Public Prosecutor
High Court of Andhra Pradesh
Hyderabad and 2 others

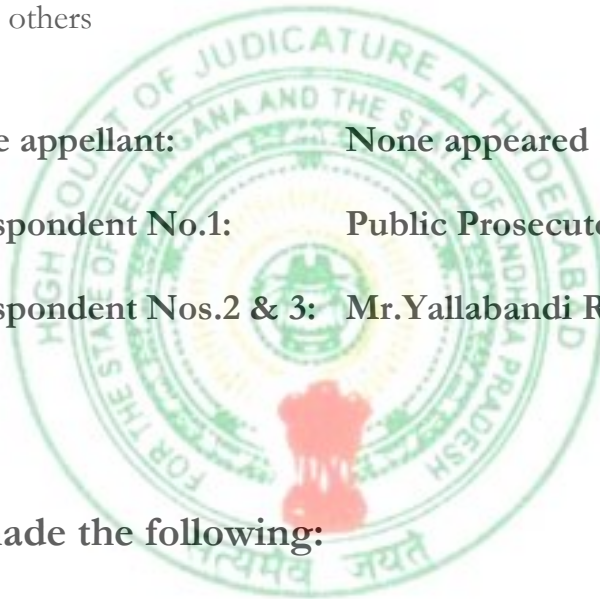
... Respondents

Counsel for the appellant: None appeared

Counsel for respondent No.1: Public Prosecutor

Counsel for respondent Nos.2 & 3: Mr.Yallabandi Ramathirtha

The Court made the following:



Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Criminal Appeal is filed by the *defacto*-complainant in Sessions Case No.460 of 2008 on the file of the III Additional Sessions Judge (FTC), Bhimavaram, whereby it has acquitted respondent Nos.2 and 3 of the charges under Sections 302 and 201 IPC read with Section 34 IPC.

At the hearing, there is no representation for the appellant. We have heard the learned Public Prosecutor for the State of Andhra Pradesh and Mr.Yallabandi Ramatirtha, learned Counsel for respondent Nos.2 and 3.

Learned Counsel for respondent Nos.2 and 3 has raised an objection on the maintainability of the Appeal on the ground that the alleged offence has taken place on 06-08-2007, *i.e.*, much before coming into force of Act 5 of 2009 (w.e.f. 31.12.2009), by which a proviso to Section 372 Cr.P.C., has been incorporated providing for a right of Appeal to a victim. The learned Counsel also submitted that the purported Appeal has abated *qua* respondent No.2- accused No.1 as he has died pending the Appeal.

We are in agreement with the learned Counsel for respondent Nos.2 and 3 as regards the maintainability of the Appeal as the incident, based on which the case was registered, has taken place much prior to 31-12-2009, when the proviso to Section 372 Cr.P.C., conferring on the victim the right to file an Appeal against acquittal, was brought into force. Therefore, this Criminal Appeal is not maintainable and the same is, accordingly, dismissed on this ground alone. Additionally, we also hold that the purported Appeal abated *qua* respondent No.2/accused No.1.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 3rd July, 2018
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