

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

**THE HON'BLE SRI JUSTICE GUDISEVA SHYAM
PRASAD**

Crl.A.No.1490 of 2011

Date: 06.06.2018

Between:

Koppula Raju S/o.Subbarao,
Aged about 27 years, Kapu,
Palam village, Kirlampudi (M),
East Godavari district.

...

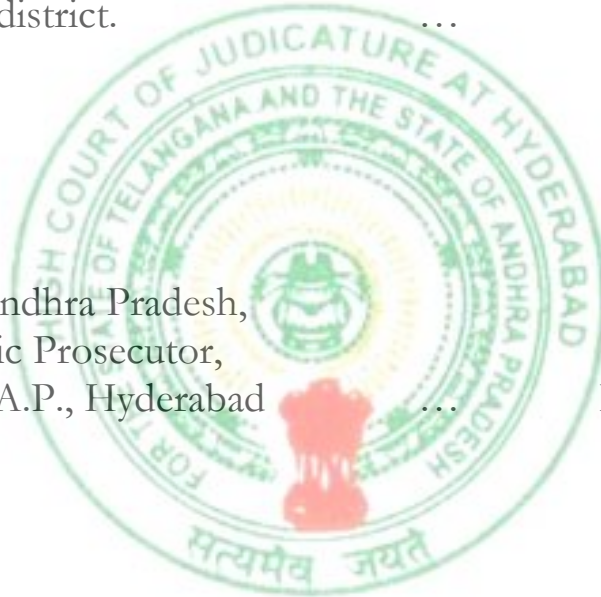
Appellant

And

The State of Andhra Pradesh,
rep. by its Public Prosecutor,
High Court of A.P., Hyderabad

...

Respondent



Counsel for the Appellant :

Sri C.S.Venkatesh

Counsel for the Respondent:

Public Prosecutor (AP)

The Court made the following:

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

This appeal arises out of judgment dated 16.12.2011 in Sessions Case No.146 of 2009 on the file of the VII Additional Sessions Judge, Kakinada, whereby the appellant/sole accused is convicted for the offences under Sections 304 (B) and 201 I.P.C. and sentenced *inter alia* to suffer imprisonment for life for the offence under Section 304 (B) I.P.C. and also to suffer rigorous imprisonment for 7 years and to pay fine of Rs.500/- and in default, to suffer imprisonment for one month, for offence under Section 201 I.P.C.

2. We have heard the learned counsel for the appellant and the learned Public Prosecutor for the State of A.P.

3. The learned counsel for the appellant submitted that having regard to the fact that his client has undergone more than six years of imprisonment following his conviction, he is not interested in pressing the appeal on merits. He however, submitted that even if the finding regarding the guilt of the appellant for the offence under Section 304-B I.P.C. is upheld, the lower Court has committed a serious error in sentencing the appellant to imprisonment for life, instead of limiting the sentence to seven years of imprisonment. In support of his submission, the learned counsel for the appellant placed reliance on the judgment of the Supreme Court in HARI OM VS. STATE OF HARYANA AND ANOTHER¹.

4. We have carefully gone through the said judgment of the Supreme Court, wherein it was held as under:

“17. This issue has been the subject-matter of debate before this Court in several cases, which arose out of Section 304-B read with Section 498-A and wherein this Court while interpreting the expression “may” occurring in Section 304-B IPC held that it is not mandatory for the Court in every case to award life imprisonment to the accused once he is found guilty of the

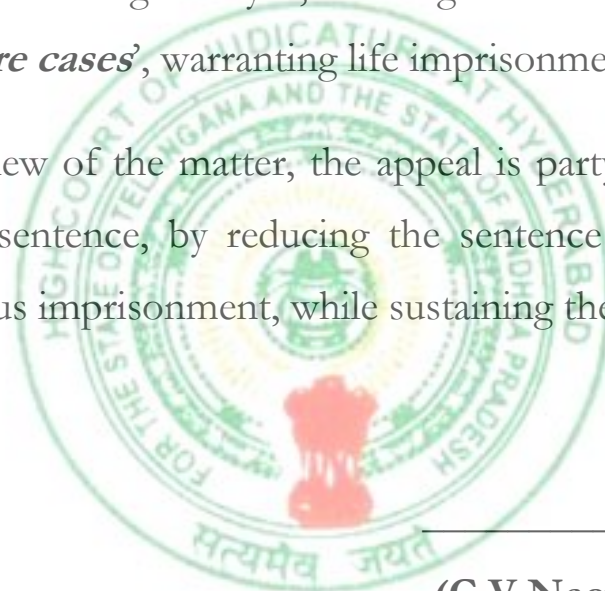
¹ (2014) 10 Supreme Court Cases 577

offence under Section 304-B. It was held that the Court could award sentence in exercise of its discretion between seven years to life imprisonment depending upon the facts of each case. It was held that in no case it could be less than seven years and that extreme punishment of life term should be awarded in “*rare cases*” but not in every case.

21. Applying the principle of law laid down in the aforementioned cases and having regard to the totality of facts and circumstances of this case, we are of the considered opinion that the ends of justice would meet, if we reduce the sentence of the appellant from life imprisonment to that of 10 years. In our view, this case does not fall in the category of a ‘*rare case*’ as envisages by this Court, so as to award to the appellant the life imprisonment. That apart, we also notice that while awarding life imprisonment, the courts below did not assign any reasons”.

5. A perusal of the judgment of the lower Court shows that no reasons have been assigned by it, to bring the instant case under the category of ‘*rare cases*’, warranting life imprisonment.

6. In this view of the matter, the appeal is partly allowed, only to the extent of sentence, by reducing the sentence to that of seven years of rigorous imprisonment, while sustaining the fine amount.



(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Date: 6th June, 2018

msb

