APHC010216952009

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI [3368]
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL NO: 351/2009

Between:

1. GURRAM VENKATESWARLU ,, S/O. CHINA MUNUSWAMY, R/O. ADI ADHRAWADA, KAVERI RAJAPURAM (V), TIRUTTANI TALUQ,

...APPELLANT

AND

1. THE STATE OF A P REP BY PP, REP.BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., HYDERABAD.

...RESPONDENT

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to present this Memorandum of Criminal Appeal to this Hon'ble Court aggrieved by the Judgment and Sentence as made in S.C.No.125/2006 dt.17.11.2008 on the file of the II Addl. Asst. Sessions Judge, Nellore.

IA NO: 1 OF 2009(CRLAMP 724 OF 2009

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 55 days in presenting the Criminal Appeal against the II Addl. Asst. Sessions Judge, Nellore, in S.C.No.125/2006

IA NO: 2 OF 2009(CRLAMP 861 OF 2009

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the sentence on the file of the II Addl. Asst. Sessions Judge, Nellore in S.C.No.125 of 2006

dt.17.11.2008

Counsel for the Appellant:

1. SUREPALLI MADHAVA RAO
2. LEGAL AID

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CRIMINAL APPEAL No: 351 of 2009

J U D G M E N T:

Heard Sri Surepalli Madhava Rao, learned Legal Aid Counsel for the appellant/A1 and Sri C.Panini Somayaji, learned Additional Public Prosecutor representing the State.

2. Information received from the Principal District Court, Nellore vide letter dated 28.07.2023 along with letter dated 26.06.2023 of I Additional Assistant Sessions Judge, Nellore, submitting that the accused/A2 & A3 filed Crl.A.No.98 of 2009 and accused/A4 filed Crl.A.No.139 of 2008 before the IV Additional District and Sessions Judge, Nellore, challenging the judgment in S.C.No.125 of 2006 deliver on 17.11.2008 against A1 to A4.

3. Both the appeals mentioned above were disposed of by the Sessions Court. The Crl.A.No.98 of 2009 was disposed of on 28.02.2011 and the Crl.A.No.139 of 2008 was disposed of on 15.03.2011. Both the appeals were allowed. A2 to A4 were acquitted.

4. The present appeal is preferred by the appellant/A1.

5. Admittedly, the maximum sentence of imprisonment imposed against the accused is seven years only. But, the appeal is preferred before this Court, instead of the Sessions Court.

6. Learned Additional Public prosecutor would submit that in view of Sub-Section (2) of Section 374 of the Code of Criminal Procedure,

1973 (in short ‘Cr.P.C.’), any person convicted on a trial held by any other Court, in which a sentence of imprisonment for more than seven years has been passed against him, may appeal to the High Court. Sub-Section (3) of Section 374 Cr.P.C. would say that save as otherwise provided in Sub-Section (2), any person convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the First Class, or of the Second Class may appeal to the Court of Session.

7. In the case on hand, the appellant was convicted on a trial held by the Assistant Sessions Judge. The sentence of imprisonment is seven years only. It is not more than seven years.

8. Therefore, the appeal could have been preferred before the Sessions Court. In that view of the matter, the appellant may be directed to present/prefer the appeal before the Sessions Court.

9. Sri Surepalli Madhava Rao, learned Legal Aid Counsel would submit that if the appeal is directed to be present before the Sessions Court, Sessions Court may be directed to dispose of the same as expeditiously as possible, within a period of six (06) months, and also to give a direction to the concerned District Legal Services Authority to take steps forthwith for appointment of a counsel to present appeal before the Sessions Court in accordance with law.

10. Considering the above submissions, on the fact that the sentence of imprisonment imposed in the case is seven years only,

and trial was conducted by the Assistant Sessions Judge i.e., to say on a trial held by any other Court, in which a sentence of imprisonment not for more than seven years, as referred in Sub-Section (2) of Section 374 Cr.P.C., the appeal shall be preferred before the Court of Sessions only.

11. In that view matter, Registry is directed to return the original bundle, to enable the appellant to prefer the appeal before the Sessions Court within thirty (30) days from the date of receipt of copy of this judgment.

12. Registry is also directed to intimate Legal Services Committee of this Court as well as concerned District Court to take steps forthwith for appointment of Legal Aid Counsel to defend the brief of the appellant/A1 and to present the appeal before the Sessions Court.

13. The Sessions Court is directed to register the appeal in accordance with law, and to dispose of the same as expeditiously as possible, preferably not later than in six (06) months from the date of receipt of copy of this judgment and case records.

14. Registry is directed to take steps to transmit the original record to the Sessions Court forthwith along with a copy of judgment of this Court certified as per Section 405 of Cr.P.C.

15. Accordingly, the Criminal Appeal is disposed of.

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

JUSTICE B.V.L.N. CHAKRAVARTHI

22.04.2026
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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL No:351 of 2009

Date: 22.04.2026

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