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APHC010232492007

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3560]
(Special Original Jurisdiction)

FRIDAY, THE 9th DAY OF OCTOBER, 2026.

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1667/2007

Between:

1. DHULIPALLA PRASANNA, S/O KOTAIAH, TEACHER, R/O.H.NO. 74-7-14, PLOT NO. 78, J.D.NAGAR 4TH CROSS ROAD, PATAMATA, VIJAYAWADA,

...PETITIONER

AND

1. THE STATE OF A P, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., HYDERABAD.
2. SANGAM RUKMANGADA REDDY, S/O VENKAT REDDY, HEAD MASTER WORKING AT ZP HIGH SCHOOL, SANGAMUDI, KRUTHIVENNU MANDAL, KRISHNA DIST.
3. SANGAM THULASAMMA, W/O KONDA REDDY, R/O MUNUGODU VILLAGE, AMARAVATHI MANDAL, GUNTUR DIST.
4. NALABOLU PUSHPA, W/O GNANASUNDARA REDDY, SCHOOL ASSISTANT GOVT. HIGH SCHOOL, IBRAHIMPATNAM, R.R.DIST.

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to present the Memorandum of Crl.R.C., against the Judgment dt. 10.04.06 in Crl.A.No.114/04 on the file of the Court of the I Addl. Dist. & Sessions Judge, Krishna at Machilipatnam

which was passed in reversing the conviction and sentence of imprisonment made in Judgment dt. 27.09.04 in C.C.No. 146/94 on the file of the J.F.C.M., Nandigama, Krishna Dist.

IA NO: 1 OF 2006(CRLRCMP 1787 OF 2006

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 (8) days in preferring the Crl.R.C., against the Judgment dt. 10.04.06 in Crl.A.No.114/04 on the file of the Court of the I Addl. Dist. & Sessions Judge, Krishna at Machilipatnam which was passed in reversing the conviction and sentence of imprisonment made in Judgment dt. 27.09.04 in C.C.No.146/94 on the file of the J.F.C.M., Nandigama, Krishna District.

IA NO: 1 OF 2016(CRLRCMP 41930 OF 2016

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

Counsel for the Petitioner:

1. UMESH CHANDRA P V G

Counsel for the Respondent(S):

1. C SHARAN REDDY
2. PUBLIC PROSECUTOR

The Court made the following order:

Instant Criminal Revision Case has heard on the point of maintainability.

2. The present criminal revision case has been preferred against the judgment, dated 10.04.2006, in Crl.A.No.114 of 2004 on the file of the learned I Additional District and Sessions Judge, Krishna, Machilipatnam, which was passed in revising the order of conviction and sentence of imprisonment made in judgment dated 27.09.1994 in C.C.No.146 of 1994 on the file of the Court of the learned Judicial Magistrate of First Class, Nandigama, Krishna District.

3. Present petitioner is a *de facto* complainant. PW.5, who lodged a complaint against accused persons viz., including respondents 2 to 4, for alleging offences punishable under Sections 409, 420 read with Section 109 IPC. After conclusion of trial, learned trial Court found A1 to be guilty for the offence under Sections 409, 420 IPC. A2, A5 and A6 for offence under Sections 409, 420 read with Section 109 IPC; they were convicted and sentenced to suffer imprisonment respectively. The order of conviction was challenged vide Crl.A.No.114 of 2004 before the learned District and Sessions Judge, Krishna, Machilipatnam. Vide impugned judgment dated 10.04.2006, the learned appellate Court, after hearing the parties, has allowed the appeal by setting aside order of conviction and sentence recorded by the learned trial Court along with other consequential orders

regarding fine and confiscation. Present criminal revision has been preferred by *de facto* complainant challenging the order of acquittal passed by the learned appellate Court.

4. During continuation of instant appeal, it came to notice of this Court through respondents by a memo which contains *inter alia* that State has also filed an appeal before this Court vide Crl.A(Sr).No.8476 of 2018 challenging the said order of acquittal. It further appears that the appeal was filed in delay and State has filed an application under Section 5 of Limitation Act for condonation of delay, vide Crl.M.P.No. 781 of 2008. A coordinate Bench of this Court, vide order dated 16.06.2008, disposed of Crl.M.P.No.781 of 2008 and Crl.A(Sr).No.8476 of 2008 with observation that the delay in filing the appeal is inordinate and no sufficient ground was assigned by the State, thereby, Criminal Miscellaneous Petition is dismissed and consequently the Criminal Appeal is also rejected.

5. It is submitted by the respondents that since an appeal arising out of the impugned order has already been dismissed and disposed of, the instant criminal revision is not maintainable.

6. Learned counsel for the petitioner submits that petitioner being *de facto* complainant has every right to challenge the order of acquittal, thereby, instant criminal revision is maintainable.

7. Heard learned counsel for the parties on length.

8. The Hon'ble Supreme Court has decided the identical issue in ***K. Ramachandran v. V.N.Rajan and another*** reported in ***(2009) 14 SCC 569*** reads as below:

> *"19. The question is undoubtedly important, and hence, though raised for the first time before us, we propose to decide the same. An incongruous situation has arisen where, though the appeal against the acquittal has been dismissed by not allowing the condonation of delay in filing the same, yet, the revision filed against the said judgment by the private complainant has not only survived but such revision has also been allowed.*
>
> *20. We must observe that the Division Bench in not allowing the condonation of delay has effectively dismissed the appeal in the sense that it has not allowed the State Government to proceed with the appeal for which there was a provision. This was a prosecution not based on a private complaint but on the police report. Therefore, the State Government had a right under Section 378(2) CrPC to file an appeal and very conspicuously the private party did not have that right. The private complainant, therefore, could only excite the general powers of revision by the High Court.*
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> *21. Firstly, we must clarify that when the Division Bench considered the question of condonation of delay in filing the appeal against acquittal, though technically it was deciding the application under Section 378(3) CrPC, it was actually the whole appeal itself which was before it. In this behalf it will have to be seen that the limitation for filing such appeal at the instance of the State Government against acquittal is provided by Article 114 of the Limitation Act.*
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> *22. It is undoubtedly true that sub-section (3) of Section 378 CrPC specifically provides that the appeal under sub-sections (1) and (2)*

cannot be entertained except with the leave of the High Court and, therefore, an application for leave in such appeal filed by the State Government is a must. The limitation for filing the appeal is 90 days from the date of the order while the same article provides for 30 days of limitation from the date of grant of special leave. Therefore, what was before the High Court was the appeal itself and the petitioner prayed the condonation of delay of 801 days in filing the appeal against acquittal. When the High Court declined to grant that permission, it, in effect, refused to entertain the appeal against the order of the trial court, thus making it final.

23. Now, obviously, if the judgment was rendered final by the Division Bench of the High Court then there could not be any subsequent order to the contrary by the Single Judge even if the effect of the pendency of the revision was not brought to the notice of the Division Bench. There is no review power under the Criminal Procedure Code to the criminal court including the High Court. Such a review power exists only in this Court. As such, once the High Court had passed the order refusing the condonation of delay of appeal and thereby awarding the finality to the trial court's judgment, that order could be considered and upset only by this Court on a proper appeal having been filed in this Court by the State Government. As against the State Government, the order of the trial court acquitting the appellant-accused had become final. Therefore, the only course left open then in law was to challenge that order refusing to condone the delay in filing appeal against acquittal.

24. It is an admitted fact that such appeal challenging the order passed by the Division Bench was never filed and the order of the Division Bench became final and has remained final till today. Under such circumstances, in our considered opinion, the revision against the same order could not have been entertained, much less allowed upsetting the finality of the trial court's judgment,

which finality was confirmed by the order of the High Court by refusing to condone the delay in filing the appeal against the same trial court judgment. That would be the true import of the appellate powers of the High Court."

9. In view of the above law laid down by the Hon'ble Supreme Court, it appears that when appeal filed by the State was dismissed by the Coordinate Bench of this Court and since State has not preferred to file an appeal against such order, then the order of dismissal became final and thereby the instant Criminal Revision challenging the same order is not at all maintainable.

10. Under the above observation, it appears to me that the instant Criminal Revision Case is not at all maintainable and the same is hereby dismissed.

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

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JUSTICE SUBHENDU SAMANTA

Date : 09.10.2026
SPP

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1667 of 2007

Dated 09.10.2026

SPP