



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3560]

**TUESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1163/2009

Between:

1.CHUNDRU SRI HARI RAO, S/O.VENKANNA MANAGING PARTNER
SRI PADMALAYA FINANCE CORPORATION, SARPAVARAM,
KAKINADA, EAST GODAVARI DISTRICT.

...PETITIONER

AND

1.THE STATE OF A P ANOTHER, HIGH COURT OF A.P.,
HYDERABAD.

2.M V V SATYANARAYANA, S/O. BOJJIRAJU PARTNER, SRI
PADMALAYA FINANCE CORPORATION, MAIN ROAD, KAKINADA,
EAST GODAVARI DISTRICT.

...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 this memorandum of Crl.R.C., aggrieved by the Order dated 01.05.09 passed in Crl.M.P.No.1458 of 2009 in C.C.No.8 of 2003 on the file of the Spl. Mobile Judl. Magistrate of First Class, Kakinada, E.G.Dist.

IA NO: 1 OF 2009(CRLRCMP 1585 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 Order dated 01.05.09 passed in Crl.M.P.No.1458 of 2009 in

C.C.No.8 of 2003 on the file of the Spl. Mobile Judl. Magistrate of First Class, Kakinada, E.G.Dist., pending disposal of the Crl.R.C.

Counsel for the Petitioner:

1.PAPUDIPPU SASHIDAR REDDY

Counsel for the Respondent(S):

1.N SIVA REDDY

2.PUBLIC PROSECUTOR

The Court made the following:

ORDER:

Instant Criminal Revision Case has been preferred against the order dated 01.05.2009 passed by the learned Judicial First Class Magistrate, Kakinada in Crl.M.P.1458 of 2009 in C.C.8 of 2003; by passing the impugned order, the learned Magistrate concerned has quashed the entire criminal proceedings by virtue of proceedings under section 468 Cr.P.C. To understand the issue properly let the some dates be mentioned as under.

2. Alleged offence under section 324 was committed on 09.04.1997 on the basis of which the complainant lodged a private complaint with the learned Magistrate on 31.03.2000. The learned Magistrate has taken cognizance of the offence on 27.11.2000. In view of decisions of Honorable Supreme Court in *Krishna Pillai vs. T.A. Rajendran*, 1990 (Supp) Supreme Court Cases 121, the learned Magistrate has opined that as the cognizance was taken beyond the period of three years as enunciated under section 468(2) of Cr.P.C., the entire criminal proceedings is recorded to be quashed.

3. The learned counsel for the petitioner submits that the decision of Honorable Supreme Court in *Krishna Pillai vs. T.A. Rajendran* was under challenge before the Constitution Bench of Supreme Court in *Sarah Mathew and Ors. Vs. Institute of Cardio Vascular Diseases by its Director K.M. Cherian and Ors.*(AIR 2014 SC 448)

4. The learned counsel for the petitioner submits that the law laid down by the Honorable Supreme Court in *Krishna Pillai vs. T.A. Rajendran* is declared

to be not a good law. Hence the order passed by the learned Magistrate is liable to be set aside.

5. Heard.

6. Learned counsel for the petitioner has also relied upon other judgments of Supreme Court passed in Ghanshyam Soni vs. State (Govt. of NCT of Delhi) and Ors. and Amritlal vs. Shantilal Soni and Ors. Wherein the Supreme Court has followed the decision of Sarah Mathew and Ors. Vs. Institute of Cardio Vascular Diseases by its Director K.M. Cherian and Ors.

7. Learned counsel for the respondents has also conceded applicability of the law declared by the Constitutional Bench of Supreme Court of India.

8. Heard the learned counsel for the parties.

9. On perusal of the observation of the learned Magistrate who passed the order in terms of the decision of the Hon'ble Supreme Court in *Krishna Pillai vs. T.A. Rajendran*. Hon'ble Constitutional Bench in Sarah Mathew and Ors. Vs. Institute of Cardio Vascular Diseases by its Director K.M. Cherian and Ors. has decided the issue in Para 2 as follows:

"2. No specific questions have been referred to us. But, in our opinion, the following questions arise for our consideration:

A. Whether for the purposes of computing the period of limitation under Section 468 of the Code of Criminal Procedure the relevant date is the date of filing of the complaint or the date of institution of

prosecution or whether the relevant date is the date on which a Magistrate takes cognizance of the offence?

B. Which of the two cases i.e. Krishna Pillai or Bharat Kale (which is followed in Janani Sahoo) lays down the correct law.”

The decision was arrived in Para 41 as follows:

“41. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 of the Code of Criminal Procedure the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. We further hold that Bharat Kale which is followed in Janani Sahoo lays down the correct law. Krishna Pillai will have to be restricted to its own fact and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 of the Code of Criminal Procedure.”

10. It is clearly observed that the Hon'ble Constitutional Bench of Supreme Court that the purpose of attributing section 468 of Cr.P.C the alleged date is date of filing of the complaint not the date on which the Magistrate has taken cognizance.

11. Under the above observation and in accordance to the decision under the law laid down by the Apex Court in Sarah Mathew and Ors. Vs. Institute of Cardio Vascular Diseases by its Director K.M. Cherian and Ors., it appears

that the impugned order passed by the learned Magistrate is improper and illegal and the same is thus set aside.

12. Thus, the Criminal Revision Case is disposed of. The learned Magistrate is directed to proceed according to law in disposing the criminal proceedings as early as possible within a period of one week from the date of receipt of this order without giving unnecessary adjournments to the either parties. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, in this petition, shall stand closed.

JUSTICE SUBHENDU SAMANTA

Date: 02.12.2025
JLSR/PBS