



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MONDAY, THE FIRST DAY OF DECEMBER,

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE K SURESH REDDY

AND

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

RT NO: 2 OF 2023

AND

CRLA.No.732 of 2023

R.T.No.2 of 2023:

[On reference of the letter vide Dis No.1205, dt.22.08.2023 from the 1st Additional District and Sessions Judge-cum-Special Judge designated for trial of offences under SCs and STs (POA) Act, 1989, Chittoor District, chittoor, in Sessions case No.52 of 2021, dt:21.08.2023 (connected to Crime No.12 of 2021 of Thamballapalli Police Station.)]

Ist Additional District and Sessions Judge-cum Special Judge designated for trial of offences under SCs and STs (POA) Act, 1989, Chittoor District, Chittoor

...Referring Officer

Between:

The State of Andhra Pradesh, rep by its Public Prosecutor, High Court Buildings, Amaravathi.

...Complainant/Petitioner

AND

Syed @ Sayyad Moulali @ Moula, S/o. (late) Khadar Sab, age 47 years, Muslim, Rio. D.No. 2-27, Gangireddipalle, Thamballapalle Mandal.

...Accused/Respondent

Whereas the Accused above named through Reference Proceedings for confirmation of the death sentence awarded against the Accused by the court of 1st Additional District and Sessions Judge-cum-Special Judge designated for trial of offences under SCs. and STs (POA) Act, 1989, Chittoor District, Chittoor in Sessions Case No.52 of 2021 Under Section 302 IPC connected to Crime No.12 of 2021 of Thamballapalli Police Station.

CRLA NO: 732 OF 2023:

Between:

Syed @ Sayyad Moulali @ Moula, S/o Late Khadar Sab, Aged 47 years,
R/o D.No2-27, Gangireddipalle, Thamballapalle Mandal, A.P (Now lodged
in Central Prison, Kadapa)

...Appellant/Accused

AND

The State of Andhra Pradesh, Through Sub-Divisional Police Officer,
Madanapalle, Rep. by the Public Prosecutor, High Court of Andhra
Pradesh at Amaravathi.

...Respondent/Complainant

Appeal under Section 374(2) of Cr.P.C is filed praying that in the circumstances stated in memorandum of grounds of Criminal Appeal, the High Court may be pleased to set aside the Judgment in (Special) Sessions Case No.52 of 2021, dated 21.08.2023 on the file of the 1 Addl. District and Sessions Judge, Chittoor District at Chittoor, consequently acquit the appellant/accused;

IA NO: 1 OF 2023:

Petition under Section 368 of Cr.P.C is filed praying that in the circumstances stated in the memorandum of grounds of criminal appeal, the High Court may be pleased to grant stay of execution of the Death Sentence imposed against the appellant/accused in Judgment passed in

(Special) Sessions Case No.52 of 2021, dated 21.08.2023 on the file of the I Addl. District and Sessions judge, Chittoor District at Chittoor, pending disposal of CRLA.No.732 of 2023, on the file of the High Court.

And whereas the High Court, upon perusing the grounds in Criminal Appeal No. 732 of 2023 filed therein and upon hearing the arguments of the Addl. Public Prosecutor for the Complainant.

ORDER:

Sole accused in Sessions Case No.52 of 2021 was convicted by the learned I Additional District & Sessions Judge—cum—Special Judge designated for trial of offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Chittoor (for short, ‘the learned Additional Sessions Judge’) under Section 302 IPC and was sentenced to death penalty apart from other sentences. After imposing death penalty, the learned Additional Sessions Judge referred the same to this Court as per the provisions of Section 366 Cr.P.C. Reference proceedings of the learned Additional Sessions Judge was forwarded by letter in Dis.No.1205 dt. 22.08.2023 for confirmation of the death sentence awarded by him in Sessions Case No.52 of 2021 dt. 21.08.2023. Registry numbered the said reference as R.T.No.2 of 2023, which was allotted to this Division Bench.

In the meanwhile, the accused also filed an appeal in Criminal Appeal No.732 of 2023 before this Court questioning the conviction and sentence.

Today, when the matters are taken up for hearing, learned counsel appearing on behalf of the appellant submitted that before awarding the death sentence, learned Additional Sessions Judge has not elicited information from the State with regard to the mitigating circumstances and also the accused was not given an opportunity to

produce evidence in rebuttal towards establishing all mitigating circumstances and in support of his contention, he relied on a decision in *Manoj v. State of Madhya Pradesh*, [(2023) 2 SCC 353], wherein the Hon'ble Apex Court held thus.

“Practical guidelines to collect mitigating circumstances.

248. There is urgent need to ensure that mitigating circumstances are considered at the trial stage, to avoid slipping into a retributive response to the brutality of the crime, as is noticeably the situation in a majority of cases reaching the appellate stage.

*249. To do this, the trial court must elicit information from the accused and the State, both. The State, must - for an offence carrying capital punishment - at the appropriate stage, produce material which is preferably collected beforehand, before the Sessions Court disclosing psychiatric and psychological evaluation of the accused. This will help establish proximity (in terms of timeline), to the accused person's frame of mind (or mental illness, if any) at the time of committing the crime and offer guidance on mitigating factors (1), (5), (6) and (7) spelled out in *Bachan Singh v. State of Punjab* (1980) 2 SCC 684. Even for the other factors of (3) and (4) - an onus placed squarely on the State - conducting this form of psychiatric and psychological evaluation close*

on the heels of commission of the offence, will provide a baseline for the appellate courts to use for comparison, i.e., to evaluate the progress of the accused towards reformation, achieved during the incarceration period.

250. Next, the State, must in a time-bound manner, collect additional information pertaining to the accused. An illustrative, but not exhaustive list is as follows:

- a) Age*
- b) Early family background (siblings, protection of parents, any history of violence or neglect)*
- c) Present family background (surviving family members, whether married, has children, etc.)*
- d) Type and level of education*
- e) Socio-economic background (including conditions of poverty or deprivation, if any)*
- f) Criminal antecedents (details of offence and whether convicted, sentence served, if any)*
- g) Income and the kind of employment (whether none, or temporary or permanent etc);*
- h) Other factors such as history of unstable social behaviour, or mental or psychological ailment(s), alienation of the individual (with reasons, if any) etc.*

This information should mandatorily be available to the trial court, at the sentencing stage. The accused too, should be given the same opportunity to produce evidence in rebuttal,

towards establishing all mitigating circumstances.

251. Lastly, information regarding the accused's jail conduct and behaviour, work done (if any), activities the accused has involved themselves in, and other related details should be called for in the form of a report from the relevant jail authorities (i.e., Probation and Welfare Officer, Superintendent of Jail, etc.). If the appeal is heard after a long hiatus from the trial court's conviction, or High Court's confirmation, as the case may be – a fresh report (rather than the one used by the previous court) from the jail authorities is recommended, for an more exact and complete understanding of the contemporaneous progress made by the accused, in the time elapsed. The jail authorities must also include a fresh psychiatric and psychological report which will further evidence the reformatory progress, and reveal post-conviction mental illness, if any.

252. It is pertinent to point out that this court, in *Anil v. State of Maharashtra*, (2014) 4 SCC 69, has in fact directed criminal courts, to call for additional material (SCC p.86 para 33)

“33.Many a times, while determining the sentence, the courts take it for granted, looking into the facts of a particular case, that the accused would be a menace to the society and

there is no possibility of reformation and rehabilitation, while it is the duty of the court to ascertain those factors, and the State is obliged to furnish materials for and against the possibility of reformation and rehabilitation of the accused. The facts, which the courts deal with, in a given case, cannot be the foundation for reaching such a conclusion, which, as already stated, calls for additional materials. We, therefore, direct that the criminal courts, while dealing with the offences like Section 302 IPC, after conviction, may, in appropriate cases, call for a report to determine, whether the accused could be reformed or rehabilitated, which depends upon the facts and circumstances of each case."

(emphasis supplied)

We hereby fully endorse and direct that this should be implemented uniformly, as further elaborated above, for conviction of offences that carry the possibility of death sentence."

For the aforesaid reasons, we hereby direct (1) the District Collector, Chittoor, Chittoor District, (2) the Deputy Superintendent of Police, Chittoor, Chittoor District and (3) the Superintendent of Central Prison, Nellore, to send their reports within a period of two (2) weeks from today, in terms of the observations made in this order.

List these matters on 22.12.2025.

Registry is directed to communicate the copy of this order to (1) the District Collector, Chittoor, Chittoor District, (2) the Deputy

Superintendent of Police, Chittoor, Chittoor District and (3) the
Superintendent of Central Prison, Nellore

SD/- T. SRINIVASA RAO
ASSISTANT REGISTRAR

//TRUE COPY/


SECTION OFFICER

To,

1. The Registrar (Judicial), High Court of A.P., at Amaravati. (by
Special Messenger)
2. The District Collector, Chittoor, Chittoor District
3. The Deputy Superintendent of Police, Chittoor, Chittoor District
4. The Superintendent of Central Prison, Nellore. (Addressee Nos.2 to
4 by **Speed Post**)
5. The I Addl. District and Sessions Judge, Chittoor District at Chittoor
6. 1st Additional District and Sessions Judge-cum-Special Judge
designated for trial of offences under SCs and STs (POA) Act, 1989,
Chittoor District, Chittoor
7. The Station House Officer, Thamballi Police Station.
8. The Sub-Divisional Police Officer, Madanapalle,
9. One CC to Sri. V.R.Machavaram, Advocate [OPUC]
10. Two CCs to Public Prosecutor, High Court of AP [OUT]
11. The Section Officer, Criminal Section, High Court of AP
12. One spare copy

HIGH COURT

KSR,J

&

SRS,J

DATED:01/12/2025

LIST THESE MATTERS ON 22.12.2025

ORDER

RT.No.2 OF 2023

AND

CRLA.No.732 of 2023

DIRECTION

