

APHC010509062016



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

[3560]

WEDNESDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 2951/2016

Between:

1. CHANUMOLU VENKATESHWARA RAO, KRISHNA DT.,, S/O. SAMBA SIVA RAO, AGED ABOUT 42 YEARS, R/O. H. NO. 2-152, RAJAKA BAZAAR, VELAGALERU VILALGE, G.KONDURU MANDAL, KRISHNA DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP REP PP AND 3 OTRS, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF A.P.,

2. DULIPALA RAMESH, S/O. MALLIKHARJUNA RAO, AGED ABOUT 45 YEARS, OCC: PRO. OF VIJAYA DURGA AGENCIES, CANAL ROAD, VIJAYAWADA, KRISHNA DISTRICT.

3. CHANUMOLU VENKATESWARA RAO, S/O. CHANDRAIAH, AGED ABOUT 50 YEARS, R/O. RAJAKA BAZAAR, VELAGALERU VILALGE, G. KONDURU MANDAL, KRISHNA DISTRICT.

4. CHANUMOLU KRISHNA RAO MUDDU KRISHNA, S/O. GOPALA RAO, AGED ABOUT 50 YEARS, R/O. RAJAKA BAZAAR, VELAGALERU VILALGE, G. KONDURU MANDAL, KRISHNA DISTRICT.

...RESPONDENT(S):

Revision filed under Section 397/401 of Cr.P.C., 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 grounds of Criminal Revision Case is filed being aggrieved by the Order dated 22.09.2016 passed in Crl. M.P. No. 1026 of 2016 in Un Numbered Crl. Appeal. No. of 2016 in C.C. No.851 of 2008 on the file of the Sessions Metropolitan Division, Vijayawada.

IA NO: 1 OF 2016(CRLRCMP 52801 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.RAMINENI SATISH BABU

Counsel for the Respondent(S):

1.NARASIMHA RAO GUDISEVA

2.PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**CRIMINAL REVISION CASE NO: 2951/2016****ORDER:**

1. Instant Criminal Revision Case (for short Crl.R.C) has been preferred against an Order dated 22.09.2016 in Crl.M.P.No.1026 of 2016 in unnumbered Criminal Appeal No.____of 2016 in Calendar Case (for short C.C) No.851 of 2008 passed by the learned Metropolitan Sessions Judge, Vijayawada

2. The brief facts of the matter is that:- petitioner was a defacto complainant in C.C.No.851 of 2008 filed under Section 420 and other allied Sections of the Indian Penal Code. The said C.C., ended in acquittal in the year 2012. The Petitioner though argued about the year of acquittal, he only preferred the Appeal in the year 2016, with an application vide Crl.M.P.No.1026 of 2016 along with application under Section 5 of the Limitation Act for condonation of delay of 1339 days. The learned Additional District Judge, concerned has heard the Petitioner and rejected the prayer for condonation of delay, by passing impugned Order. Hence, this Revision.

3. The learned Counsel for the Petitioner submits that the learned Court below has not properly gone through the merits of the application and passed the impugned Order erroneously. There are good grounds in the appeal. There is a good chance for the Petitioner to succeed in the Appeal. The Appeal is very meritorious. Thus, the Appeal record to be heard. He further submits that the earlier Counsel who was engaged by the Petitioner before the learned Court

below namely Sri Kaniganti Seshagiri expired. The Petitioner had no knowledge about the fact and he was in an understanding that the Appeal has been filed and it was pending, but recently he came to know that the said learned Counsel has expired and he met his Clerk, he returned all records. It appears that no appeal has been preferred in due time. Hence, the instant Appeal has been preferred in the year 2016. Learned Counsel for the Petitioner further submits that there are no intentional latches on the part of the Petitioner to prefer the appeal with such delay, as such, the Petitioner was keen to prefer an appeal, as there is a good merit to succeed. He submits, that the Order passed by the learned Court below may be set aside, the petitioner may be permitted to prefer an Appeal.

4. Learned Counsel for the Respondents No.2 to 4 raised an objection and submits that the learned Court has not committed any error, the conduct of the petitioner is curious. He submits that the learned Counsel for the Petitioner has expired in the year 2016 and the Order of acquittal was passed in the year 2012. The Petitioner was sitting idle after the Order of acquittal. There is no evidence to show that he came to know about the death of his Counsel in the year 2016. He further submits that the facts narrated in the affidavit by the Petitioner before the learned Court below cannot be considered to be true. The learned Additional District Judge concerned has correctly rejected the application for condonation of delay.

5. Heard the learned Counsel for parties, perused the observation of the Court below, in refusing the prayer of the petitioner for condonation of delay

learned Court below is of the opinion that the learned Advocate for the Petitioner was died in the Month of April, 2016 and Petitioner did not choose to file an affidavit from the Clerk of the learned Advocate, supporting the fact of the Petitioner. It is further observation of the learned Court below that the explanation given by the Petitioner is not reasonable. Admittedly, only one affidavit was placed before the learned Court below in support of the application under Section 5 of the Limitation Act. As the affidavit only be contained that the Petitioner heard about death of his earlier Advocate in the year 2016 (recently), there are no evidences on record regarding knowledge of the Petitioner. Only pleading regarding the fact that the knowledge of the Petitioner comes later regarding death of the Advocate is not sufficient. The learned Additional District Judge concerned did not find any clinching proof to justify the affidavit of the Petitioner. The fact suggests that the knowledge of the acquittal is well known to the Petitioner. It has been submitted by the learned Counsel for the Petitioner that the Petitioner has taken steps to prefer an Appeal, but no proof of such fact such as giving Vakalat or papers to the learned Advocate has placed on record before the learned Additional District Judge.

6. Considering the situation, it appears that the learned Court below has correctly opined regarding rejection of the prayer for condonation of delay. I find no justification to interfere with the Order passed by the learned Court Below. There is no reason legally and factually to place a separate view to that of the learned Court.

7. Accordingly, I find no merits to interfere with the finding of the learned Court below and the same is dismissed as devoid of merits.

8. In the result, the Criminal Revision Case is dismissed as devoid of merits.

Consequently, pending miscellaneous applications, if any, shall stand closed.

JUSTICE SUBHENDU SAMANTA

Dated 03.12.2025
KS1

218

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 2951/2016

DATED:03.12.2025.

KS1