

R. Annapurna vs Ramadugu Anantha Krishna Sastry ...

Supreme Court of India

R. Annapurna vs Ramadugu Anantha Krishna Sastry ... on 9 August, 2000

Equivalent citations: JT 2000 (10) SC 479, (2002) 10 SCC 401

Bench: K Thomas, R Sethi

ORDER

1. We have considered the explanation for the delay. Though the delay is apparently very long it has been sufficiently explained. We accept the explanation and condone the delay.

2. Leave granted.

3. The order impugned in this appeal has been passed by a Division Bench of the High Court of Andhra Pradesh on 3.10.1996 in Criminal Petition No. 1878 of 1996. The factual backdrop is necessary for understanding the scope of this appeal. A criminal case has been charge sheeted against respondent Nos. 1 to 5 on a complaint lodged by the appellant alleging offences under Sections 406 and 420 of the Indian Penal Code. Some of the respondents filed a petition before the High Court on 13.6.1994 in Criminal M.P. No. 1264 of 1994 praying for quashing the criminal proceedings initiated against them. However, that petition for quashment was dismissed by the High Court by order dated 28.1.1995. It must be further mentioned that appellant was also heard by the High Court before passing the said order.

4. Without mentioning the aforesaid facts, the respondents filed another Criminal Petition (No. 1878 of 1996) before the High Court on 22.2.1996 for quashing the criminal proceedings. It must be pointed out that the appellant was not made a party in the said petition. Thus, without being informed of the earlier order of the High Court dated 28.1.1995 and without affording an opportunity to the appellant for being heard, the Division Bench passed the impugned order on 3.10.1996.

5. When appellant came to know of the said order, she moved the High Court with a prayer to recall the said order, but that was dismissed on the premise that the High Court has no power to recall or review its own order. To that extent, the High Court was correct. Hence, the special leave filed by the appellant challenging the order passed on the recall petition SLP (Crl.) No. 976/1998 has been dismissed by us.

6. There can be no two opinions that the order dated 28.1.1995 has become final. Learned Counsel for the respondents made an endeavour to show that it is open to the same parties to move the High Court once again on causes which developed subsequent to 28.1.1995. We are not considering that contention in the present case, for the second petition for quashing was not made on the strength of anything which developed subsequent to 28.1.1995 but only on the facts which subsisted prior to that date. If that be so, the High Court had no power to upset the order dated 28.1.1995 with the help of any subsequent order though in this case the High Court did so without being informed of the prior order.

7. Consequentially, we quash the order of the High Court dated 3.10.1996. However, we hasten to add that this order of ours is passed without prejudice to the right of the respondents to move the trial court for discharge. We are disposed to afford some more reliefs to the respondents. We notice that among the respondent some of them are ladies. So, if any of the respondents would apply before the trial court for exempting them from personal appearance the trial court shall exempt them from personal appearance on the following conditions:

1. He or she would not dispute his or her identity as the particular accused mentioned in the charge sheet.
2. A counsel on their behalf would be present in the court whenever the case is taken up.
3. They would be present in the court on the date when such presence becomes imperatively needed.

The appeal is disposed of in the aforesaid terms.