
(1976) 07 AP CK 0018
In the Andhra Pradesh High Court

Edara Pavana Venkateswara Mitra

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 23-07-1976

Acts Referred:

Citation : (1977) CriLJ 470

Hon'ble Judges : Gangadhara Rao, J

Bench : Single Bench

Judgement

Gangadhara Rao, J.—I have disposed of this criminal revision on merits on 8th April, 1976. Smt. Ramaseshamma an advocate filed this revision. The case was posted in the daily list for hearing. Still she did not appear and the matter was disposed of on merits by me.

2. Now this petition is filed by Sri Y. Sivarama Sastry that I should set aside my order dated 8th April 1976 and re-hear the matter.

3. I am afraid I cannot do that. This is not a case where the petitioner's advocate had no notice of the hearing of the petition. Secondly, I cannot dismiss a criminal revision for default of the appearance of the party or the advocate. Thirdly, I have disposed of the matter on merits.

4. In this connection the learned Counsel for the petitioner has relied upon the decisions in Keshav Lal Vs. Gaveria, ; Ram Dass Vs. State, ; Mohammad Wasi and Another Vs. State, ; In Re: Tadi Somu Naidu and Another, , Lal Singh and Others Vs. State and Others, and Swarth Mahto and Another Vs. Dharmdeo Narain Singh, . But in Keshav Lal v. Gaveria, the case was dismissed for default, for the non-appearance of the party. It was not disposed of on merits. Similar is the case in Ram Dass v. State, In Mohammad Wasi and Another Vs. State, It has been held that if the order is erroneous on its face it could be reviewed. T. Somu Naidu In re is a case where a sentence was enhanced without giving notice to the accused. Swarth Mahto v. Dharmdeo relates to a case where the cause list was printed in the High Court without mentioning the names of the respondent and

his advocate in an appeal preferred by the State against the acquittal of the accused and it was allowed and subsequently the accused filed a petition for re-hearing of the case which was dismissed. In the appeal preferred against that judgment to the Supreme Court, the Supreme Court has observed that the application for re-hearing of the appeal in the High Court should have been allowed because no notice was, in fact given to the accused's advocate. There is no discussion of the question whether the High Court has the power to review its own order. Thus all these cases are clearly distinguishable from the facts of the present case.

5. The learned Counsel for the petitioner has referred me to a decision of a Full Bench of the High Court of Punjab and Haryana reported in Lal Singh and Others Vs. State and Others, where it has been held that the High Court has inherent power u/s 561-A of the old Code to revoke, review, recall or alter its own earlier decision in a criminal revision and to re-hear the same. But a Full Bench of this Court has taken a different view in Public Prosecutor v. Devireddi AIR 1962 A P 479 : 1962 2 Cri LJ 727 . It has been" held by the Full Bench that there is no Inherent power in the High Court u/s 561-A to alter or review its own judgment once it has been pronounced except In cases where it was passed without jurisdiction or in default of appearance, that is, without affording an opportunity to the accused to appear. It was further held that the only remedy open to the accused was to file an appeal to the Supreme Court. I am bound by this judgment.

6. It is also argued by the learned Counsel for the petitioner that if the accused had no effective opportunity to present his case, then it should be treated as if the case was heard without notice to him and the matter could be reheard. I find that there is a distinction between disposing of a case without notice to a party and after notice to a party. If a notice is given to the party or to his advocate then the fact that he is not present will not make any difference in a Revision.

7. In the result, I hold that, on the facts of the case, the petition for rehearing is not maintainable and I dismiss it.