

(1956) 01 AP CK 0018
In the Andhra Pradesh High Court
In Re: Bokkasam Krishnayya

Date of Decision : 09-01-1956

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 1957 AP 163 : (1957) CriLJ 813

Hon'ble Judges : Bhimasankaram, J

Bench : Single Bench

Judgement

Bhimasankaram, J.—These two criminal revision, cases are against orders of acquittal. They were presented to this Court on 14.12.1955. They were adjourned last week as the learned Advocate for the petitioners represented that he would like to convert them into Crl. Appeals. He has, however, made no attempt to convert them into criminal appeals and it is obvious that he cannot do so because under the new Criminal Procedure Code as amended, an application for special leave to appeal must be filed first in such cases u/s 417, Sub-section (3). It may be noted that these revision cases were filed after the expiry of 60 days from the date of the order which is the period limited by Sub-section (4) to Section 417 for the presentation of an application for the grant of special leave. Mr. Sarma contends that there is discrimination between the State and the "complainant (1) in insisting upon the latter obtaining special leave to appeal before presenting an appeal while there is no such limitation upon the State's right of appeal and (2) in limiting the period of limitation for such presentation to 60 days under Sub-section 4, while the Public Prosecutor acting under Sub-section (1) of the same section has a period of three months by virtue of Article 157, Limitation Act. He says that this is opposed to the provisions of the Article 14 of the Constitution, 1 see no force in this contention. I cannot for a moment entertain the objection that Article 14 precludes the State being treated by the Legislature on a footing different from an individual citizen. This difference is in my opinion, based upon grounds of high policy. I cannot see my way to accept the contention that the provisions of Section 417 contravene the constitutional protection of equality under Article 14.

2. That being so, these criminal revision cases at the time they were filed, could

have been presented to this Court, as such because at that time no right of appeal was available to the complainant as Section 439, Sub-section (5) did-not apply; and the period for filing an application for special leave having expired in both the cases, no such application can now be filed u/s 417(3). In these circumstances, these criminal revision cases will be posted tomorrow for orders as to admission.