
(2001) 09 AP CK 0151

In the Andhra Pradesh High Court

Case No : Criminal Appeal No. 1303 of 2001 and Criminal R.C. No. 1041 of 2001

Krishnareddigari Pradeep Reddy

APPELLANT

Vs

Government of Andhra Pradesh

RESPONDENT

Date of Decision : 12-09-2001

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2001) 09 AP CK 0151

Hon'ble Judges : T. Gopala Krishna, J; Ramesh Madhav Bapat, J

Bench : Division Bench

Advocate : A. Hanumantha Reddy, for the Appellant; The Public Prosecutor, for the Respondent

Judgement

Ramesh Madhav Bapat, J.—The appellant herein is an accused No. 2 in Sessions Case No. 39 of 1999, which was decided by the Additional Sessions Judge, Hindupur. The accused/appellant along with his elder brother was tried for an offence punishable u/s 302 of the Indian Penal Code. After the evidence was over, the learned Judge came to the conclusion that both the accused in furtherance of common intention committed an offence punishable u/s 302 of the Indian Penal Code and, therefore, convicted them. After conviction, the learned Judge put a question to the appellant herein regarding the sentence. At the time of giving answer to the question put by the learned Judge, the appellant herein told the learned Judge that he was born on 26.1.1982, but he could not get a certificate, and sought time. He further pleaded to treat him as an adolescent offender. It further appears from the record that the learned Judge postponed the order of conviction allowing the accused/appellant to produce the certificate. Thereafter a detailed enquiry was held. The learned Judge came to the conclusion that the accused/appellant was born on 26.1.1982. The offence in question was committed on the intervening night of 9/10.12.1997. The accused/appellant was arrested on 13.1.1998. He was remanded to judicial custody on 14.1.1998 and ultimately the judgment was pronounced on 08.08.2000 and the accused/appellant was sentenced to suffer imprisonment for life.

2. It further appears that after the judgment was pronounced, the accused/appellant filed Crl.M.P. No. 151 of 2000 on 10.08.2000 seeking to treat him as a juvenile, but the said application was dismissed holding that as the judgment was already pronounced, the application is not maintainable and it amounts to review of the judgment. Aggrieved by the aforesaid finding given by the learned Judge in Crl.M.P. No. 151 of 2000, the accused/appellant filed Crl.R.C. No. 1041 of 2001. Since in both the cases common point is involved, they are disposed of by a common judgment.

3. The learned Senior Counsel Mr. C. Padmanabha Reddy, relied upon a ruling of the Apex Court reported in Gopinath Ghosh Vs. The State of West Bengal, , wherein it is held:

It clearly transpires from a combined reading of the sections herein before extracted that where a juvenile delinquent is arrested, he/she has to be produced before a Juvenile Court and if no Juvenile Court is established for the area, amongst other, the Court of Session will have powers of a Juvenile Court. Such a juvenile delinquent ordinarily has to be released on bail irrespective of the nature of the offence alleged to have been committed unless it is shown that there appears reasonable grounds for believing that the release is likely to bring him under the influence of any criminal or expose him to moral danger or defeat the ends of justice.

4. The learned Counsel further relied upon a ruling reported in Raj Singh v. State of Haryana in which their Lordships were pleased to hold that in cases of juvenile offenders the trial should have been held by the Juvenile Court, and that as the appellant therein has been convicted by the Sessions Judge, the trial is vitiated. Relying upon the said rulings, we hold that as the accused/appellant was juvenile on the date of commission of offence and on the date of his first production, the learned Judge ought not to have proceeded against him, as he has no jurisdiction to try the juvenile offenders.

5. Hence, the order of conviction and sentence recorded against the appellant/petitioner is set aside and the matter stands remitted to the Juvenile Court, Ananthapur, for holding enquiry against the accused/appellant as per the Juvenile Justice Act.

6. Till then, the accused/appellant is directed to be released on bail on furnishing surety of Rs. 10,000/- (Rupees ten thousand only) with a personal bond to the like sum to the satisfaction of the Juvenile Court.