

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

Cr1.R.C.No.350 of 2013

ORDER:-

The police filed charge sheet under Sections. 392, 307, 341, 506 of I.P.C.

2. The Court of learned Judicial Magistrate of First Class, Penukonda has taken cognizance of the same. As the witnesses failed to undergo cross-examination, the learned Magistrate acquitted the accused for the offences charge sheeted.

3. Aggrieved by the said judgment, the *de facto* complainant filed the appeal under Section 372 of Criminal Procedure Code.

4. The learned appellate Court Judge while allowing the appeal has observed that the trial Court has not eschewed the evidence of P.W.11 which was recorded in chief and further stated that for disposition of judgment, the learned Judge ought to have taken the chief-examination into consideration. As the learned trial Court Judge failed to do so and on the said ground, the learned appellate Court Judge has allowed the appeal and remanded back the matter to the trial Court for giving an opportunity to the prosecution.

5. Aggrieved by the said judgment of the appellate Court, the present Criminal Revision Case is filed by the petitioners/A-1 to A-3.

6. Learned counsel for the petitioners submits that the trial Court has giving several opportunities and issued BWs by following the provisions of Section.350 of Criminal Procedure Code. Having no other alternative the trial Court acquitted the accused and dismissed the complaint.

7. As per the judgment of the Hon'ble Apex Court in "*State of Rajasthan V. Iqbal Hussien*¹," it is held that the right to speedy trial does not protect an accused from all prejudicial effects caused by delay. Its core concern is impairment of liberty. Possibility of prejudice is not enough. Actual prejudice has to be proved. Thus, the Hon'ble Apex Court has remanded back to the trial Court for trial of the case in the similar circumstances.

8. Hence, relying on the above judgment, this Court declines to interfere with the order of lower appellate Court.

9. Accordingly, the Criminal Revision Case is dismissed confirming the order of the lower appellate Court. Office is directed to send back the record to the Court below.

Pending Miscellaneous Petitions, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 01-04-2022
EPS

¹ (2004) 12 SCC 499

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