

In Re: Ponneri Dasi Reddi

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Court : Andhra Pradesh

Decided On : Apr-11-1958

Reported in : 1958CriLJ1289

Judge : Basi Reddi, J.

Appellant : In Re: Ponneri Dasi Reddi

Judgement :

ORDER

Basi Reddi, J.

1. This revision petition is directed against a complaint filed against the petitioner by the Sessions Judge, Chittoor, under Section 479A, Criminal P. C, for an offence under Section 193, IPC The allegation against the petitioner was that, having stated on oath in his statement under Section 164, Criminal P. C, that he had seen Govindu (the accused in the Sessions Case) running out of the hut where he (the petitioner) found the wife of one Chinnabba lying dead with stab injuries, at the Sessions trial, giving evidence as P.W. 8, he had resiled from that statement and had sworn that he had not seen any one running out of the hut. P. W 8 was the mainstay of the prosecution in that case.

2. The judgment in the Sessions Case was pronounced on 27-9-1957 and the accused therein was acquitted.

3. It would appear that even on 11-9-1957 the Inspector of Police, Puttur, had filed a petition under Section 479-A, Criminal P. C, requesting the Sessions Judge to file a complaint for perjury against the petitioner. The learned Sessions Judge, however, while pronouncing judgment in the Sessions Case, contented himself by saying in the last paragraph of his judgment 'that the proceeding (the petition filed by the Inspector) is pending, having been adjourned to another date at the request of the Public Prosecutor.'

4. Some time later on 11-10-1957, the Sessions Judge recorded a finding that it was expedient in the interests of justice that the petitioner should be prosecuted for perjury. Having recorded that finding, the learned Judge gave an opportunity to the petitioner of being heard and drew up a complaint on 18-10-1957, under Section 479-A, Criminal P. C, for an offence under Section 193, IPC for intentionally giving false evidence in a stage of the judicial proceeding, and thereafter forwarded the complaint to the 1st Class Magistrate, Chandragiri.

5. The learned Sessions Judge has overlooked the mandatory provisions of Section 479-A, Criminal P. C, in failing to record a finding with reasons therefor at the time of the delivery of the judgment in the Sessions Case to the effect that the witness had intentionally given false evidence in a stage of the judicial proceeding and that in the interests of justice it was expedient that the witness should be prosecuted for perjury.

The section enjoins that such a finding should be recorded at the time of the delivery of the judgment or final order disposing of such proceeding, although a formal complaint could be made subsequently after giving the witness an opportunity of being heard. In this case, the finding as required by the Section was recorded on 11-10-1957 although the judgment in the Sessions Case was pronounced on 27-9-1957.

Such a course is opposed to the express terms of Section 479-A, Criminal P.C. The recording of a finding in the manner prescribed by the Section is a condition precedent to the laying of a complaint. It follows that the complaint filed in this case is one not made in accordance with law and has to be quashed. A result such as this is regrettable but is inevitable if the mandatory provisions of the

statute are disregarded by the courts below.

6. The revision petition is allowed and the complaint lodged against the petitioner is directed to be withdrawn.

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