

S.N. Sharma and ors. Vs. the State, Represented by Public Prosecutor

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Court : Andhra Pradesh

Decided On : Dec-29-1969

Reported in : 1971CriLJ1056

Judge : Venkateswara Rao, J.

Appellant : S.N. Sharma and ors.

Respondent : The State, Represented by Public Prosecutor

Judgement :

ORDER

Venkateswara Rao, J.

1. The only question that has to be answered in this case is as to whether a revision entertained Under Section 435, Criminal P.C. could be dismissed for default.

2. In a prosecution under the Mines Act, certain statements said to have been recorded by the Joint Director of Mines who was the complainant in the case, were sought to be put into Court through P.W. 1. This was objected to on behalf of the petitioners, who were accused in that case. This objection was however overruled by the Additional District Magistrate, Executive, and the statements were received in evidence. Aggrieved by this order, the accused preferred a revision to the Sessions Judge, Visakhapatnam. Having admitted the petition, the learned

Sessions Judge rejected it on 18-7-1969 on the ground that there was no representation for the petitioners. It is to question the correctness of this order that the present revision has been preferred.

3. Having taken the revision on file and called for records of the proceedings before the Additional District Munsif, it was the duty of the learned Sessions Judge to examine those records for the purpose of satisfying himself as to the correctness, legality or propriety of the order sought to be challenged before him regardless of the presence or otherwise of the petitioners when the matter was called on for hearing in his Court and he had no jurisdiction to reject the revision petition, when once it was admitted, for default. Reference may be made in this context to *G.V. Sadasivarao v. The Special Officer* 1969 (2) APLJ 241, in which it was pointed out by Mirza, J., that it is the duty of a Court, even if none of the parties is present and once the revision is admitted to decide the case on merits I must, therefore, agree with the petitioners that the order of the Court below rejecting the revision petition for default is unsustainable.

4. In the result, the petition is allowed and the matter is remitted to the Court below for being disposed of on merits in accordance with law after affording a reasonable opportunity to the parties to appear before him for the purpose of substantiating their respective contentions.