

A KOLLA VEERA RAGHAV RAO
v.
GORANTALA VENKATESWARA RAO AND ANR.
(Criminal Appeal No. 1160 OF 2006)

FEBRUARY 1, 2011

B [MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

Code of Criminal Procedure, 1973: s.300(1) – Scope of – Held: s.300(1) is wider than Article 20(2) of the Constitution – While, Article 20(2) only states that ‘no one can be prosecuted and punished for the same offence more than once’, s.300 (1) states that no one can be tried and convicted for the same offence or even for a different offence but on the same facts – In the instant case, accused was already convicted u/s.138 of Negotiable Instruments Act, 1881 – He cannot be again tried or punished on the same facts under s.420 or any other provision of IPC or any other statute – Constitution of India, 1950 – Article 20(2) – Negotiable Instruments Act, 1881 – s.138 – Penal Code, 1860 – s.420.

E CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1160 of 2006.

From the Judgment & Order dated 7.10.2005 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Appeal No. 1581 of 1999 and Criminal Revision Case No. 312 of 1999.

Bina Madhavan, Vinita Sasidharan (for Lawyer’s Knit & Co.) for the Appellant.

G Ramesh Allanki (for D. Mahesh Babu) for the Respondents.

The following Order of the Court was delivered

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned judgment and order dated 07th October, 2005 passed by the High Court of Andhra Pradesh in Criminal Appeal No. 1581 of 1999 and Criminal Revision Case No. 312 of 1999.

The facts have been set out in the impugned judgment and hence we are not repeating the same here except wherever necessary.

Learned counsel for the appellant submitted that the appellant was already convicted under Section 138 of the Negotiable Instruments Act, 1881 and hence he could not be again tried or punished on the same facts under Section 420 or any other provision of IPC or any other statute. We find force in this submission.

It may be noticed that there is a difference between the language used in Article 20(2) of the Constitution of India and Section 300(1) of Cr.P.C.. Article 20(2) states:

“no person shall be prosecuted and punished for the same offence more than once.” On the other hand, Section 300(1) of Cr.P.C. States:

“300. Person once convicted or acquitted not to be tried for same offence—

(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1)

A of section 221 or for which he might have been convicted under sub-section (2) thereof.”

B Thus, it can be seen that Section 300(1) of Cr.P.C. is wider than Article 20(2) of the Constitution. While, Article 20(2) of the Constitution only states that ‘no one can be prosecuted and punished for the same offence more than once’, Section 300(1) of Cr.P.C. states that no one can be tried and convicted for the same offence or even for a different offence but on the same facts.

C In the present case, although the offences are different but the facts are the same. Hence, Section 300(1) of Cr.P.C. applies. Consequently, the prosecution under Section 420, IPC was barred by Section 300(1) of Cr.P.C.

D The appeal is allowed and the impugned judgment of the High Court is set aside.

D.G.

Appeal allowed.