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[2011] 2 S.C.R. 364

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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

C

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

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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 .

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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

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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 .

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

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The following Order of the Court was delivered

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ORDER

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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 .

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

C

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 .

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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 :

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" 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-

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(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)

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

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
B 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 .