



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.233 OF 2016

YERUVA SAYIREDDY

APPELLANT(S)

VERSUS

THE STATE OF ANDHRA PRADESH & ANR.

RESPONDENT(S)

O R D E R

The appellant in this case was an accused who was convicted by the Trial Court under Section 302 of the Indian Penal Code, 1860 (IPC) for murder of his daughter-in-law. The sentence was confirmed by the High Court and hence, this appeal has been filed.

Admittedly, the appellant has died after being in jail for about 12 years. As per Section 394 of the Code of Criminal Procedure, 1973 (Cr.P.C.) on the death of the appellant/convict the appeal is to abate. The proviso thereof carries an exception to the effect that a near relative may, within thirty days of the death of the appellant/convict, apply to the Appellate Court for leave to continue the appeal. The explanation to the said proviso defines 'near relative' to mean a parent, spouse, lineal descendant, brother or sister. In the present

case, there is no application for leave to continue the appeal after the death of the appellant/convict.

Mr. Shikhil Suri, learned counsel appearing as an Amicus Curiae appointed by this Court on behalf of the deceased appellant/convict has submitted that this is a very good case where there is every chance of the appellant being acquitted and considering the intention of the legislature in providing an appeal not abating even after the death of the appellant/convict, his oral prayer as an Amicus Curiae be considered as an application for continuance of this appeal and appeal be not abated.

The appeal is governed by the substantive provision of law. Section 394 of the Cr.P.C. reads as under:

"394. Abatement of appeals. - 1) Every appeal under section 377 or section 378 shall finally abate on the death of the accused.

2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the

appeal; and if leave is granted, the appeal shall not abate."

The counsel, as an Amicus, cannot be treated as a near relative of the deceased appellant/convict. The application for continuance of the appeal having not been made within 30 days or even thereafter by any near relative, in our opinion, as per the provision of Section 394 of the Cr.P.C., this appeal would abate. Accordingly, the appeal stands disposed of as having abated.

....., J.
(VINEET SARAN)

....., J.
(ANIRUDDHA BOSE)

NEW DELHI;
MARCH 07, 2022.

ITEM NO.1 Court 9 (Video Conferencing) SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 233/2016

YERUVA SAYIREDDY

Appellant(s)

VERSUS

THE STATE OF ANDHRA PRADESH & ANR.
([OFFICE REPORT FOR DIRECTION.])

Respondent(s)

Date : 07-03-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE VINEET SARAN
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s) Mr. Shikhil Suri, Adv.
Ms. Madhu Suri, Adv.
Ms. Jyoti Suri, Adv.
Ms. Nikita Thapar, Adv.
Ms. Vinishma Kaul, Adv.
Ms. Komal Gupta, Adv.
Ms. Mahima Aggarwal, Adv.
Ms. Nidhi, AOR

For Respondent(s) Mr. Mahfooz A. Nazki, AOR
Mr. Polanki Gowtham, Adv.
Mr. Shaik Mohamad Haneef, Adv.
Mr. T. Vijaya Bhaskar Reddy, Adv.
Mr. K.V. Girish Chowdary, Adv.
Ms. Rajeswari Mukherjee, Adv.
Mr. D. Mahesh Babu, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of as having abated in terms of the reportable signed order.

Pending application(s), if any, stands disposed of accordingly.

(ARJUN BISHT)

(RAM SUBHAG SINGH)

(ASHWANI THAKUR)

(COURT MASTER (SH)

(BRANCH OFFICER)

AR-CUM-PS

(Signed reportable order is placed on the file)