

## Kolla Veera Raghav Rao vs Gorantla Venkateswara Rao And Anr on 1 February, 2011

**Equivalent citations: AIR 2011 SUPREME COURT 641, 2011 (2) SCC 703, 2011 AIR SCW 788, AIR 2011 SC (CRIMINAL) 506, 2011 ACD 332 (SC), 2011 (2) AIR KANT HCR 300, 2011 CRILR(SC MAH GUJ) 260, 2011 (1) RECCRIR 803.1, 2011 (2) CALCRILR 1, 2011 (1) SCC(CRI) 882, 2011 (2) SCALE 148.2, (2011) 102 ALLINDCAS 233 (SC), (2011) 2 CHANDCRIC 263, 2011 CALCRILR 2 1, (2011) 2 JCR 193 (SC), 2011 CRILR(SC&MP) 260, 2011 (102) ALLINDCAS 233, 2011 (2) KCCR 102 SN, (2011) 1 BOMCR(CRI) 754, (2011) 1 BANKCAS 669, (2011) 1 CRIMES 266, (2011) 1 KER LJ 675, (2011) 1 CRILR(RAJ) 260, (2011) 1 UC 449, (2011) 1 ORISSA LR 898, (2011) 48 OCR 639, (2011) 1 PAT LJR 159, (2011) 1 RECCRIR 803(1), (2011) 1 CURCRIR 394, (2011) 3 CURCRIR 64, (2011) 2 ALLCRIR 1497, (2011) 2 SCALE 148(2), (2011) 1 DLT(CRL) 507, (2011) 73 ALLCRIC 977, (2011) 2 CALLT 77, (2011) 4 ALLCRILR 38, (2011) 3 CIVLJ 477, (2011) 112 CUT LT 79, (2011) 1 KER LT 602, (2011) 1 NIJ 396, (2011) 1 RECCIVR 901, 2011 (1) SCC (CIV) 547, (2011) 2 BOM CR 448**

**Bench: Gyan Sudha Misra, Markandey Katju**

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1160 OF 2006

Kolla Veera Raghav Rao

..Appellant

versus

Gorantla Venkateswara Rao & Anr.

..Respondents

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."

CRIMINAL APPEAL NO. 1160 OF 2006 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) 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 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.

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.

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

.....J. [MARKANDEY KATJU] NEW DELHI; .....J. FEBRUARY 01, 2011  
[GYAN SUDHA MISRA]