

ANDHRA PRADESH HIGH COURT

Alla Nageswara Rao

Vs.

State (Andhra Pradesh)

Referred Trial No. 67 of 1954

(Subba Rao, C.J., and Satyanarayana Raju, J.)

23.11.1954

JUDGMENT

Subba Rao, C.J.

1. After we heard this appeal for some time, it was brought to our notice that the accused, who is a poor man, was not given a real opportunity to defend the charge against him for murder. The accused was defended by an advocate in the Committing Magistrate's Court. But, before the Sessions Judge, it is represented by the learned counsel for the accused and it is not denied by the learned Public Prosecutor, that an advocate was engaged for the accused two hours prior to the trial. However eminent and intelligent an advocate might be, we are not satisfied that he could have done any justice to the case in such a short time.

2. It must be borne in mind that the accused should be given every reasonable opportunity to put forward their case and their defense, particularly when a charge for a grave offence is leveled against them. Rule 228 of the Criminal Rules of Practice reads :

"A pleader will be engaged at the cost of the State to defend an accused person, who does not engage a pleader himself and who is under sentence of death or has been called upon to show cause why a sentence of death should not be passed upon him or against whom an appeal has been filed under Section 417, Criminal Procedure Code, in cases involving imprisonment, and may, if necessary, be engaged in a case involving a lesser sentence."

3. A mere formal compliance with this rule will not carry out the object underlying the rule. A sufficient time should be given to the advocate engaged on behalf of the accused to prepare his case and conduct it on behalf of his client. We are satisfied that the time given was insufficient and, in the circumstances, no real opportunity was given to the accused to defend himself.

4. The conviction and sentence are set aside and the learned Sessions Judge is directed to dispose of the case afresh after engaging an advocate for the accused and giving him a reasonable opportunity to prepare the brief.

Case remanded.