

Supreme Court Online

Scope and ambit of the jurisdiction of Supreme Court Court in hearing review petitions. Article 137 of the Constitution empowers the Supreme Court to review any judgment pronounced by it, subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution of India. Order XLVII, Rule 1 of the Supreme Court Rules, 2013 provides that the Court may review its own judgment or order, but no application for review will be entertained in a civil proceeding except on the ground mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure, 1908 and in a criminal proceeding except on the ground of an error apparent on the face of the record. Needless to mention that the Supreme Court Rules, 2013 are framed under Article 145 of the Constitution. Order XLVII, Rule 1 of the Supreme Court Rules, 2013 is materially the same as Order XL, Rule 1 of the Supreme Court Rules, 1966. In *P.N. Eswara Iyar v. Registrar, Supreme Court of India*, (1980) 4 SCC 680, this Court observed that Order XL, Rule 1 of the Supreme Court Rules, 1966 limits the grounds for review in criminal proceedings to “errors apparent on the face of the record”.

Review is not rehearing of the appeal all over again and to maintain a review petition, it has to be shown that there has been a miscarriage of justice (See: *Suthendraraja v. State*, (1999) 9 SCC 323). An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review (See: *Kamlesh Verma v. Mayavati*, (2013) 8 SCC 320). An applicant cannot be allowed to reargue the appeal in an application for review on the grounds that were urged at the time of hearing of the appeal. Even if the applicant succeeds in establishing that there may be another view possible on the conviction or sentence of the accused that is not a sufficient ground for review. This Court shall exercise its jurisdiction to review only when a glaring omission or patent mistake has crept in the earlier decision due to judicial fallibility. There has to be an error apparent on the face of the record leading to miscarriage of justice (See: *Vikram Singh v. State of Punjab*, (2017) 8 SCC 518). Justice Mohan M. Shantanagoudar in *Sudam v. State of Maharashtra*, (2019) 9 SCC 388 held that review petitioners cannot seek re-appreciation of the evidence on record while hearing review petitions.

Under O. 47, R. 1 of Supreme Court Rules of 2013, Court may review its judgment in criminal proceedings on ground of an error apparent on face of record – Petitioners convicted under Section 302 of IPC and sentenced to death for murder of 8 persons – Plea that while dismissing appeal, court relied upon theft committed by the Petitioners from the house of the deceased, for which charge they had been acquitted by the trial court – Though such an error appears from the judgment of this Court, it is not an “error apparent on the face of the record” as the impugned judgment of this Court in affirming the death sentence was not rendered on the basis of the said finding.

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