

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No. 1804 OF 2014

% 17-09-2014

Janapala Krishna

... Petitioner/ A.4

Vs.

\$ The State of Andhra Pradesh,
Through the Public Prosecutor,
High Court of A.P., Hyderabad rep.by the SHO,
Patamata, L & O Police station,
Vijayawada City.

... Respondent

! Counsel for the petitioner : Sri P.S.P. Suresh Kumar

Counsel for Respondents : Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

01. AIR (1978) SC page 47 = 1977 (4) SCC-551
02. (1977) 4 SCC 137
03. (2013) 7 SCC 789
04. (2008) 13 SCC 584
05. (1958) SCR 1226
06. AIR 1967 SC 1637: 1967 Cri.L.J.1576

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No. 1804 OF 2014

ORDER:

The revision, under Sections 397 and 401 of Cr.P.C., is filed by the petitioner against the bail cancellation order, dated 01.09.2014, in CrI.M.P. No.1545 of 2014, on the file of I Metropolitan Sessions Judge, Vijayawada, whereby cancelling the bail, which was granted by the learned Magistrate concerned.

It is maintained as a revision under Section 397 of Cr.P.C. before this Court, no doubt, under Section 401 of Cr.P.C., the powers of revision before the High Court are in addition to Section 397 of Cr.P.C. also under Section 401 of Cr.P.C., of exercising in deciding the revision appeal powers also; leave about the other powers of the High Court either under Section 483 of Cr.P.C. in entertaining the revision under supervisory jurisdiction or the inherent power within the three riders specified in Section 482 of Cr.P.C. which inheres in the Court that also saved by the Code. In fact, Section 397(2) of Cr.P.C. bars maintainability of revision against the orders which are interlocutory in nature. In the expression of the three Judges Bench of the Apex Court in **Madhulimaye v. The State of Maharashtra**^[1] referring to the earlier expression of the two Judges Bench in **Amar Nath v. State of Haryana**^[2] it was categorically hold that against the order granting or refusing or cancelling bail which are interlocutory in nature, revision is not maintainable. Further, the expression of the Apex Court in **Mohit @ Sonu v. State of U.P.**^[3] and the expression of the three Judges of the Apex Court in **Narendra K. Amin vs. State of Gujarat**^[4] held that though superior Courts are entertaining the matters impugning against grant or refusal or cancellation of bail as appeals, it is virtually under Section 439 Cr.P.C., for cancellation or otherwise under Section 482 Cr.P.C. In the expression of three Judges Bench of the Apex Court in

Talab Haji Hussain v. Madhukar Purshottam Mondekar and Anr.,^[5]

it was observed that against the order granting bail in a bailable offence even that can be cancelled, if at all to impugn, it can only be under Section 561-A Cr.P.C. (old) equivalent to Section 482 Cr.P.C. (new). The same was approved in the other five Judges Bench expression of the Apex Court in **Ratilal Bhanji v. Asstt Collector of Customs.**

Bombay^[6] holding that against the order cancelling the bail even filed an appeal before the Supreme Court, when on factual matrix; the Supreme Court under Article 136 cannot easily interfere and even otherwise by invoking inherent power that is there to the High Court under Section 561-A Cr.P.C. it was observed to renew by filing fresh application for bail that is not a bar from cancellation of earlier bail order. In fact, a detailed order is passed by this Court regarding remedy is to file application under Section 482 Cr.P.C. and not by revision against the cancellation of bail order, vide order dated 15.09.2014 in CrI.R.C. No.1506 of 2014. Needless to say, the remedy is to move afresh bail application, or the other remedy if at all to impugn the cancellation order of the bail is only under Section 482 Cr.P.C. for interference within the inherent power of the High Court and not to impugn by maintaining the revision.

Having regard to the above, the Registry is directed to return the papers for presentation as an application under Section 482 Cr.P.C.

In view of the above expression, Registry is directed, hereafter, not to entertain any revision against the order cancelling the bail for the remedy is only filing under Section 482 Cr.P.C. from the referred settled expressions of the Apex Court.

Dr.B. SIVA SANKARA RAO, J

September 17, 2014

Note: Issue C.C. by
tomorrow. bv

Lr. Copy to be marked – Yes.

[\[1\]](#) AIR (1978) SC page 47 = 1977(4) SCC-551

[\[2\]](#) (1977) 4 SCC 137

[\[3\]](#) (2013) 7 SCC 789

[\[4\]](#) (2008) 13 SCC 584

[\[5\]](#) [1958] SCR 1226

[\[6\]](#) AIR 1967 SC 1639 : 1967 Cri LJ 1576