

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1029 of 2012

ORDER:

_____ This criminal revision case is filed under Sections 397 and 401 Cr.PC challenging the common order dated 18.5.2012 in CrI.M.P. Nos.271 and 272 of 2012 in S.C. No.8 of 2009 on the file of the Special Judge for Trial of Offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act-cum-VII Additional Sessions Judge, Prakasam District at Ongole.

2. _____ The contention of the learned Public Prosecutor is two fold: (1) the trial court dismissed the petitions on assumptions and presumptions; and (2) the order passed by the trial court is not legally sustainable.

3. _____ A perusal of the record reveals that the respondents are facing trial in S.C. No.8 of 2009 for the offences under Sections 147, 148, 448, 427, 332, 506 and 307 read with 149 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the Act). When the matter is posted for examination of the accused under Section 313 Cr.P.C., the prosecution filed two CrI.M.Ps: (1) CrI.M.P. No.271 of 2012 to reopen the matter; and (2) CrI.M.P. No.272 of 2012 to issue summons to L.Ws.15 to 17. The trial court dismissed the petitions on the ground that in spite of several adjournments, the prosecution has not shown any interest in the matter. Having no other alternative, the trial court closed the evidence on behalf of the prosecution. The trial court has not committed any error while dismissing the petitions.

4. _____ Now the question that arise for consideration in this revision case is, "*Whether revision case is maintainable against the orders passed on the petitions filed under Section 311 Cr.P.C?*"

5. _____ The question is no more *res integra*. In **Sethuraman v Rajamanickam**^[1], the Hon'ble Apex Court held as follows:

4. Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2)Cr.P.C. The Trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. **Therefore, both the orders, i.e., one on the application under Section 91 Cr.P.C. for production of documents and other on the application under Section 311 Cr.P.C. for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable.** Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, this criminal revision case is not maintainable either on facts or in law. The criminal revision case is liable to be dismissed.

7. Accordingly, the criminal revision case is dismissed. Miscellaneous petitions if any pending in this CrI.RC shall stand closed.

T.SUNIL CHOWDARY, J

June 21, 2016.
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^[1] 2009(1) ALD (CrI.) 871 (SC)