

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Criminal Revision Case No.206 of 2016

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., challenging the order dated 09.10.2015 passed in CrI.M.P.No.1894 of 2015 in CC No.414 of 2014 on the file of the XIV Metropolitan Magistrate, Cyberabad at L.B. Nagar.

2. Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent.

3. The contention of the learned counsel for the petitioner is in two folds. (1) The trial court dismissed the petition on the erroneous grounds. (2) The findings recorded by the trial court are perverse and therefore, it is a fit case to allow the revision case.

4. Per contra, learned counsel for the 2nd respondent submits that no revision lies against the orders passed under Section 91 Cr.P.C. He further submits that when the petition itself is not maintainable, there is no need to go into the merits of the main case.

5. A perusal of the record reveals that the petitioner is facing trial in CC No.414 of 2014 on the file of the XIV Metropolitan Magistrate, for the offences punishable under Sections 498-A and 506 of IPC and Sections 4 and 6 of the Dowry Prohibition Act. During the pendency of the trial, the 2nd respondent-*de-facto* complainant filed a petition under Section 91 Cr.P.C. to issue summons to both Vodafone Ltd., the Manager Legal and Regulatory-Alternative Nodal Officer, Legal Department, Hyderabad to produce the extract of the data of the messages sent by the accused through his mobile number 9885494542 to the *de-facto* complainant/ 2nd

respondent Airtel Mobile number 7702788116 during the period from September, 2013 to January, 2014 and also to issue summons to Airtel Ltd., the Manager Legal and Regulatory-Alternative Nodal officer, Legal Department, Hyderabad, to produce the extract of the data of the messages received by the *de-facto* complainant R.2 by Airtel Mobile number 7702788116 from the Vodafone mobile number 9885494542 during the period from September 2013 to January, 2014.. After affording reasonable opportunity to both parties, the trial court allowed the said petition.

6. It is needless to say that if there is any illegality or irregularity or impropriety in the orders of the trial court, this court can set aside the same by exercising the jurisdiction under Section 397 Cr.P.C. When the maintainability of the revision itself is in question, the court has to satisfy itself with regard to the maintainability.

7. To substantiate the arguments, learned counsel for the 2nd respondent has drawn the attention of this Court to the decision of the Apex Court in 'Sethuraman vs. Rajamanickam'¹, wherein, the Apex Court at para 4, 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

¹ 2009(1) ALD 871

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”.

8. As per the principle enunciated in the above case, no revision lies against the orders passed by the trial court under Sections 311 and 91 Cr.P.C. In the instant case, the impugned order was passed under Section 91 Cr.P.C. The principle enunciated in the case cited supra squarely applicable to the facts of the case on hand.

9. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that the present revision case is not maintainable under law.

10. The criminal revision case is, accordingly, dismissed. Miscellaneous petitions, if any pending in this case, shall stand closed.

Date: 25.10.2016.

BSS

T. SUNIL CHOWDARY, J

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

40

Crl.R.C. No.206 of 2016



Date: 25.10.2016

BSS