

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1744 OF 2012

ORDER:

_____ This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. challenging the orders dated 14.08.2012 in CrI.M.P.No.28 of 2012 in S.C.No.126 of 2012 on the file of the Court of Assistant Sessions Judge, Razole.

2. _____ Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. _____ A perusal of the record reveals that the petitioner herein is facing the trial for the offence punishable under Section 306 I.P.C. in S.C.No.126 of 2012. After completion of the trial, the petitioner filed a petition under Section 91 read with 139 Cr.P.C. to cause production of the file information of two mobile phones. The trial Court after affording reasonable opportunity to both parties, dismissed the petition. Feeling aggrieved by the orders of the trial Court, the present revision is filed.

4. _____ Learned Public Prosecutor submitted that no revision is maintainable against the orders passed in a petition filed under Section 91 Cr.P.C.

5. _____ Learned counsel for the petitioner submitted that revision lies against the interlocutory orders.

6. _____ In order to appreciate the rival contentions, this Court is placing reliance on the ratio laid down in **Sethuraman v. Rajamanickam** ^[1] wherein the Hon'ble Apex Court held at para No.4 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.”

7. 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 criminal revision case is not maintainable.

8. Accordingly, the Criminal Revision Case is dismissed.

9. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

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T.SUNIL CHOWDARY, J

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Date: 27.06.2016

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^[1] 2009 (1) ALD (CrL.) 871 (SC)