

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(114)

CRM-M-33513-2016

Decided on: September 23, 2016.

Balbir Singh

.... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sushant Kohli, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

This is a petition under Section 482 Cr.P.C for a direction to learned Additional Sessions Judge, Jalandhar for disposal of criminal revision pending before the said Court claiming that though the revision petition is against an interim order but the said interim order will not fall under interlocutory order debarring the exercise of jurisdiction under Section 397 (2) Cr.P.C as per the judgment in **Uppal Credit and Investment Pvt. Ltd. Vs. Ashwani Kumar, 2016 (2) R.C.R. (Criminal) 648.**

Learned counsel for the petitioner submits that the petitioner has got an apprehension that the revision petition will be held to be not maintainable by the revisional Court.

I have heard learned counsel for the petitioner.

Without expression of any opinion on merits of the revision petition or the maintainability of the same, this Court is of the opinion that the present petition is pre-mature as the revision petition filed by the the petitioner, has not been decided on merits taking into consideration the plea of its maintainability or the strength of the revision petition on merits.

The powers under Section 482 Cr.P.C cannot be exercised by this Court on the mere apprehension of the petitioner that his petition will be dismissed as not maintainable in case is argued before the revisional Court. It is obligatory for a Court of law to consider all the relevant legal arguments raised before the Court and to consider the same and pass an order. It is not expected that the revisional Court will not consider the plea of maintainability of the revision petition besides considering the legality and propriety of orders passed by the trial Court dismissing application under Section 311 read with Section 294 Cr.P.C.

This petition is disposed of as pre-mature expecting that the revisional Court will consider the legality and propriety of order dated 24.02.2016 taking into consideration the controversy regarding maintainability of the revision petition in the light of the Statute as well as the case law.

This order will not prejudice the liberty to the petitioner to raise all the pleas of fact and law before the revisional Court.

Nothing said in this order will affect the adjudication of the revision petition pending before the revisional Court.

(M.M.S. BEDI)
JUDGE

September 23, 2016
harsha

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No