

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.128 of 2017

JUDGMENT:

This Criminal Revision Case, under Sections 397 and 401 Cr.P.C, is filed challenging the concurrent findings recorded by II Metropolitan Magistrate-cum-Principal Magistrate for Juvenile Justice Board, Cyberabad at LB Nagar, in C.C.No.1937 of 2013 dt.12.05.2013, which was affirmed by the XIV Additional District and Sessions Judge-cum-XIV Additional Metropolitan Sessions Judge, Rangareddy District at LB Nagar, dt.30.12.2016, dismissing the Calender Case finding the accused not guilty for various offences punishable under Sections 468, 471 and 420 IPC based on the evidence.

The acquittal of the Accused is now challenged before this Court under Section 397 and 401 Cr.P.C on various grounds.

The major grounds raised before this Court are with regard to failure of the trial Court in appreciating the evidence and the Judgment of the Civil Court in O.S.No.984 of 2017 on the file of I Additional Senior Civil Judge, Rangareddy, and committed grave error in finding the accused not guilty.

The powers of this Court under Section 401 Cr.P.C. are limited though Section 401 confers a kind of paternal and supervisory jurisdiction on the high Court, over all criminal Courts established in the state in order to correct miscarriage of justice arising from a misconception of law, irregularity, or

procedure, neglect of proper precautions or apparent harshness or treatment which has on the one hand resulted in some injury due maintenance of law and order or, on the other hand, in some undeserved hardship to individuals.

The High Court will not exercise jurisdiction under Section 401 Cr.P.C if there has been no failure of justice even though the proceedings of the lower Court suffers from irregularity or impropriety. When the Court finds that an order of conviction has been based on no legal evidence or the findings are illegal, unreasonable or perverse, the revisional court can correct the wrong or injustice done to the accused by setting aside an order of conviction. But this power is hedged by Sub Section 3 of Section 401, which clearly says that the Section shall not deemed to authorize the high Court to convert a finding of acquittal into one of conviction. Thus, absolutely no power is conferred on this Court to convert an acquittal into conviction, in view of the bar under Clause 3 of Section 401 Cr.P.C. As a general rule, the High Court will not, in revision interfere with a finding of fact and this is specially so, where there are concurrent findings of facts by the lower Courts. But in special and exceptional circumstances, the High Court is entitled to go into questions of fact and do justice, though the power should be rarely exercised, as held by the Apex Court in *S.P.S.Jayam and company V. Nehrusadan*¹.

¹ 1977 SC 1621

Here, the concurrent findings have been recorded, but what are the rarest circumstances to exercise power is not contemplated anywhere. If the Court finds that the finding of the trial Court is manifestly perverse or patently erroneous, the Court can interfere with a fact finding recorded by the trial Court. But here, no such perversity or manifest perversity or patent error is brought to the notice of this Court in appreciation of evidence. That apart, the trial Court and Appellate Court considered the evidence and acquitted the accused for the offences for which they were charged.

In the absence of any perversity in appreciation of evidence or patent error, this Court cannot interfere with the findings of the trial Court. On the other hand, in view of Sub Section 3 of Section 401 Cr.P.C, this Court while exercising power under Section 397 and 401 Cr.P.C. cannot convert a finding of acquittal into one of conviction, as held by the Apex Court in *Logendranathjha v. Shri Polailala*²

At the same time, the High Court must see that it does not convert a finding of acquittal into that of conviction by ordering retrial, as held in *Chinnaswamy v. State of AP*³.

Therefore, in view of the limited powers conferred of this Court and the bar contained in Sub Section 3 of Section 401 CR.P.C., I am not inclined to interfere with the fact finding recorded by the trial Court as I find no manifest perversity or

² 1951 SC 316

³ 1962 SC 1788.

apparent error in appreciation of evidence by both the Courts while recording fact findings and that apart, the bar under Sub Section 3 of Section 401 Cr.P.C. does not permit this Court to convert the finding of acquittal into conviction, by applying the principles laid down by the Apex Court referred to supra. Hence, this Criminal Revision Petition deserves to be dismissed as it devoid of merits.

In the result, this Criminal Revision Case is dismissed.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand dismissed.

Date: 01-08-2017.
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M. SATYANARAYANA MURTHY, J



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Dt. 01-08-2017

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