

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.967 of 2011

ORDER:

1 This Criminal Revision Case is filed under Section 397 and 401 Cr.P.C. challenging the order dated 11.04.2011 passed in M.P.No.449 of 2011 in M.C.No.326 of 2008 on the file of the Court of the Additional Metropolitan Sessions Judge for the Trial of JHCBBC-cum-Family Court-cum-XXIII Additional Chief Judge, Hyderabad wherein and whereby the petition filed by the petitioner under Section 311 Cr.P.C was dismissed.

2 The learned counsel for the petitioner strenuously submitted that the trial Court without considering the scope of Section 311 Cr.P.C dismissed the petition on erroneous grounds. He further submitted that if the order passed by the trial Court is allowed to stand, it would, certainly, amount to miscarriage of justice. There is no representation for the second respondent.

3 The point that arises for consideration in this Criminal Revision is "Whether the order passed by the court below is sustainable under law or not?"

4 A perusal of the record reveals that the second respondent herein filed M.C.No.326 of 2008 under Section 125 Cr.P.C. against the petitioner herein seeking maintenance from him. After completion of evidence on both sides, the petitioner filed a petition under Section 311 Cr.P.C to call for the Khaji to prove the recitals of Exs.R.1 to R.3.

5 It is the case of the petitioner that he obtained divorce from the second respondent as per Muslim law and paid an amount of Rs.32,000/- to the second respondent for iddat period. It is the contention of the petitioner that examination of the Khaji will resolve the dispute between the parties once for all.

6 It is needless to say that the alleged amount of Rs.32,000/- was paid by the petitioner to the respondent only for iddat period. Even assuming but not conceding that the petitioner has obtained divorce from the second respondent as per Muslim law, that does not absolve the legal liability of the petitioner from paying maintenance to the second respondent under certain circumstances. The trial Court made an observation that the alleged signature of the second respondent on Ex.R.2 can be compared with the admitted documents. The petitioner has not assigned reasons much less cogent and valid reasons for non-examination of the Khaji as a witness on his behalf for such a long time. The trial Court has considered all these aspects in right perspective and dismissed the petition. Even if the Kaji is not examined, no prejudice will be caused to the petitioner in view of the peculiar facts and circumstances of the case.

7 There is no illegality or irregularity in the order passed by the trial Court which warrants interference of this court in exercise of revisional jurisdiction under Section 397 Cr.P.C.

8 Having regard to the facts and circumstances of the case I am of the considered view that this is not a fit case to allow the Revision Case. This Revision Case lacks merits and bonafides. Accordingly, this Criminal Revision Case is dismissed. As a sequel, miscellaneous petitions, if any pending in this Criminal Revision Case, shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 07.09.2017
Kvsn