

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.1652 OF 2017

ORDER

This criminal revision is filed under Sections 397 and 401 of Cr.P.C. questioning the propriety and legality of the order dated 02.05.2017 in CrI.M.P.No.1095 of 2017 in C.C.No.94 of 2015 whereby the IX Special Magistrate, Somajiguda, Hyderabad dismissed the petition filed under Section 311 Cr.P.C. to summon the daughter-in-law of respondent/complainant to examine her as a witness by producing certain records.

None appeared for the petitioner and there was no representation on his behalf.

Though the petition is filed under Sections 397 and 401 Cr.P.C, this Court cannot dismiss the petition for default but this Court is competent to decide the petition by verifying the material available on record without waiting for the counsel for the petitioner as held by Delhi High Court in **Nisha Sharma and others v. Vinod Kumar Sharma**¹. Therefore, persuaded by the judgment of the Delhi High Court, I would like to decide this revision in accordance with law.

The first and foremost objection is about maintainability of revision against the order passed under Section 311 of Cr.P.C. The order under challenge is only the interlocutory order and no revision is maintainable in view of the bar under Section 397(2) of Cr.P.C., and in view of the law declared by the Apex Court in **Sethuraman v. Rajamanickam**². Hence, no revision is

¹ 1990 Cri.L.J. NOC 57 (Delhi)

² 2009 CrI.J.2247

maintainable against an order passed under Section 311 of Cr.P.C.
and consequently, the revision is liable to be dismissed.

In the result, the Criminal Revision Case is dismissed.

Miscellaneous petitions, pending if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 12.09.2017
ssp

