

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI
CRIMINAL REVISION CASE Nos.2063 & 2064 of 2014

COMMON ORDER:

Criminal Revision Case No.2063 of 2014 is filed by the petitioner, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), assailing the order, dated 22.08.2014, of the learned XV Additional Judge – cum – XIX Additional Chief Metropolitan Magistrate, Hyderabad, passed in CrI.M.P.No.1071 of 2014 in C.C.No.503 of 2010, filed by the petitioner/accused under Section 291 of the Code, with a request to receive on file, a copy of the plaint in O.S.No.1514 of 2013 on the file of the Court of the learned I Senior Civil Judge, City Civil Court, Hyderabad.

1.1 Criminal Revision Case No.2064 of 2014 is filed by the same petitioner, assailing the order, dated 22.08.2014, passed by the same learned Judge in CrI.M.P.No.1072 of 2014 in C.C.No.503 of 2010, filed by the petitioner/accused with a request to reopen the case to enable the petitioner to file the aforesaid document and submit further arguments in the above case.

2. Since these Criminal Revision Cases arise out of orders passed in miscellaneous petitions filed by the same petitioner in one calendar case and as the facts & issues involved and the parties are one and the same, both these revisions are being disposed of by this common order.

3. I have heard the submissions of *Sri L.K.Sharma*, learned counsel appearing for the petitioner/accused, and of *Sri Shyam S.Agarwal*,

learned appearing for the 2nd respondent in both these revision cases. I have perused the material record.

4. The facts, which lie in a narrow compass, in brief, are as follows:-

The 2nd respondent/complainant filed the above Calendar Case against the petitioner/accused requesting to punish him for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The matter was disposed of by the trial Court after full-fledged trial. However, while disposing of appeal in Crl.A.No.291 of 2012 filed by the petitioner/accused, the appellate Court remanded the matter to the trial Court for disposal afresh. The operative portion of the judgment in the said appeal verbatim reads as follows:-

“In the result, the judgment dt.13-1-2012 passed by the learned XIX Additional Chief Metropolitan Magistrate, Hyderabad, in C.C.No.503 of 2010 is hereby set aside and the case is remitted back to the trial Court for disposal afresh. The trial Court is directed to allow the complainant to file the money lenders license and receive the evidence from the side of the complainant in respect of the said license and also allow the accused to adduce evidence, if any, to oppose the money lenders license filed by the complainant.”

Aggrieved of the said remand orders, the petitioner/accused filed Crl.R.C.No.2566 of 2013 before this Court. This Court, by order, dated 19.12.2013, dismissed the said Criminal Revision Case *inter alia* observing that there is no error of jurisdiction committed by the learned II Additional Metropolitan Sessions Judge in remitting the matter to the learned Magistrate for fresh disposal and that there is no merit in the revision. After such remand orders, the learned Magistrate proceeded with further trial of the Calendar Case as per the directions in the remand order, which are extracted supra. After recording of the evidence in the Calendar Case is concluded as per the directions in the remand orders of

the appellate Court, which are confirmed by this Court, the petitioner/accused was also examined further under Section 313 of the Code. When the matter was at that stage, the petitioner/accused filed the aforementioned petitions with the following requests: (i) To receive on file, the copy of the plaint in O.S.No.1514 of 2013 on the file of the Court of the learned I Senior Civil Judge, City Civil Court, Hyderabad; and, (ii) To reopen the case to file the said documents and for hearing the further arguments. On resistance of the above said two petitions by the 2nd respondent/complainant, the trial Court dismissed both the petitions by the orders impugned in both these revisions. Aggrieved thereof, the petitioner/accused filed both these Criminal Revision Cases.

5. The learned counsel for the petitioner/accused in both these Criminal Revision Cases would submit that filing of the copy of the plaint and reopening of the case for filing the said document and for further hearing of the arguments of the petitioner/accused is necessary not only in the interests of justice but also to substantiate the defence of the accused and that if no opportunity is granted by allowing the petitions, the petitioner/accused suffers serious loss. He would further submit that a perusal of the document which is being sought to be filed, viz., the copy of the plaint in O.S.No.1514 of 2013 on the file of the Court of the learned I Senior Civil Judge, City Civil Court, Hyderabad, reflects that two notices, that is, one on 08.04.2008 and another on another date were issued by the 2nd respondent/complainant, and that the said averments in the copy of the plaint bring to the fore the crucial fact that the complaint

was filed against the petitioner/accused after issuance of two notices and hence, the complaint is not maintainable.

6. However, learned counsel for the 2nd respondent/complainant would submit that the requests are contrary to the directions in the remand judgment of the appellate Court and that the trial Court is not having jurisdiction to travel beyond the remand directions and entertain any requests like the present requests of the petitioner/accused and that therefore, the orders impugned in the revisions are justified and are sustainable under facts and in law.

7. I have given earnest consideration to the facts and submissions.

7.1 The operative portion of the judgment of the appellate Court, which contains the directions indicating the scope of remand, is already extracted supra. The said order reflects that while remanding the matter, the appellate Court directed the trial Court to allow the complainant to file the money lenders licence and receive evidence of both sides with regard to the said money lenders licence that may be filed by the complainant. The said judgment of the appellate Court has become final. Thus, as rightly contended by the learned counsel for the 2nd respondent/complainant, the order of remand was made with specific directions and for a limited purpose. Since the function of the trial Court is to determine the case only in terms of the directions in the remand order or judgment and not to reopen a settled issue, the learned Magistrate is obligated to follow the directions in the remand order/judgment of the appellate Court and is not supposed to travel beyond the said directions. As already

noted, the appellate Court, has only directed to allow the complainant to file the money lenders licence and receive the evidence from the side of the complainant in respect of the said licence and also allow the petitioner/accused to adduce evidence, if any, to oppose the money lenders licence filed by the complainant. The said exercise is already completed. Therefore, the learned Magistrate need not be faulted for not considering the requests of the petitioner/accused to reopen the case and receive the document, which are beyond the terms of the directions in the remand order/judgment passed by the appellate Court.

8. Viewed thus, this Court finds that the learned Magistrate is justified in rejecting the said requests of the petitioner/accused and that therefore, the Criminal Revision Cases, which are devoid of merit are liable to be dismissed.

9. In the result, both these Criminal Revision Cases are dismissed.

Miscellaneous petitions, if any, pending in both these Criminal Revision Petitions, shall stand closed.

M.Seetharama Murti, J

20th July, 2017
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