

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10073 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code to quash the proceedings in CrI.M.P.No.62 of 2017 in S.C.No.67 of 2017 on the file of Assistant Sessions Judge, Nandigam, while dismissing a petition filed under Sections 91 & 233 of Cr.P.C which is filed seeking permission to adduce defence evidence after completion of examination of the petitioners/accused under Section 313 Cr.P.C.

CrI.M.P.No.62 of 2017 was dismissed by the Court below. Aggrieved by the said order, the present criminal petition is filed. But, the order under challenge is not amenable to jurisdiction of this Court under Section 482 Cr.P.C, in view of the law laid down by the Apex Court in **Girish Kumar Suneja v. C.B.I**¹, wherein, the full Bench of the Supreme Court had an occasion to decide the similar subject and held as follows in paragraphs 24,25,27,28 & 29:

“Therefore, when Section 397(2) prohibits interference in respect of interlocutory orders, Section 482, cannot be availed of to achieve same objective. In other words, since Section 397(2) prohibits interference with interlocutory orders, it would not be permissible to resort to Section 482. To set aside an interlocutory order prohibition in Section 397 will govern Section 482 thereof. In the present case, although, appellants might have an entitlement (not a right) to file a revision petition in High Court but that entitlement can be taken away and in any event, High Court is under no obligation to entertain a revision petition – such a petition can be rejected at threshold. If High Court is inclined to accept revision petition it can do so only against a final order or an intermediate order, namely, an order which if set aside would result in culmination of proceedings. There appear to be only two such eventualities of a revisable order and in any case only one such eventuality is before Supreme Court. consequently result of paragraph 10 of order dated 25.07.2014 passed by Supreme Court is that entitlement of appellants to file a revision petition in High Court is taken away and thereby High Court is deprived of exercising its extraordinary discretionary power available under Section 397 of the Cr.P.C. However, it does not mean that appellants have no

¹ AIR 2017 SUPREME COURT 3620

remedy available to them – paragraph 10 of order dated 25.07.2014 does not prohibit appellants from approaching Supreme Court under Article 136 of Constitution. Therefore all that has happened is that forum for ventilating grievance of appellants has shifted from High Court to Supreme Court. Mere fact that Supreme Court could dismiss petition filed by appellants under Article 136 of Constitution without giving reasons does not necessarily lead to conclusion that reasons will not be given or that some equitable order will not be passed. Thus, if an interlocutory order is not revisable due to the prohibition contained in Section 397(2) that cannot be circumvented by resort to Section 482”.

In view of the law declared by the Supreme Court in **Girish Kumar Suneja**¹ case, where no revision is maintainable against interlocutory order, in view of bar under Section 397(2) Cr.P.C, similarly petition under Section 482 Cr.P.C is also not maintainable. Hence, the petition is liable to be dismissed.

However, liberty is given to the petitioners to file appropriate application.

With the above direction, the petition is dismissed.
No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:01.11.2017

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