

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2764 of 2016

JUDGMENT:

This criminal revision case, under Sections 397 and 401 of Cr.P.C., is filed challenging the order, dated 20-08-2016 in CrI.M.P.No.103 of 2016 in CrI.A.No.452 of 2016 passed by the Additional Metropolitan Sessions Judge, Cyberabad, L.B. Nagar, Ranga Reddy District, suspending the operation of order in D.V.C.No.46 of 2014 on the file of the XX Metropolitan Magistrate, Cyberabad at Malkajgiri, dated 02-05-2016 subject to paying all the arrears of maintenance and rent within a month from the date of order and also to pay maintenance amount of Rs.30,000/- to the wife and son apart from Rs.10,000/- towards rent, in future, regularly as directed by the trial Court and totally suspending the order of paying compensation of Rs.10 Lakhs.

Learned counsel for the petitioner raised several grounds. This Court took an objection about maintainability of revision against the order under challenge, which is interlocutory in nature passed during the pendency of the appeal, as it is hit by Section 397 (2) of Cr.P.C. Learned counsel for the petitioner would contend that the revision is maintainable and this Court can exercise power and pass appropriate orders.

As seen from the order under challenge, it is only an interlocutory order suspending payment of compensation of Rs.10 lakhs subject to payment of maintenance etc., as stated above, during pendency of the appeal. This order would not culminate or terminate the entire proceedings, therefore, it is an interlocutory order as held by Hon'ble Apex Court in **Amar Nath and others Vs. State of Haryana and others**¹, it is held as follows:

“The term ‘interlocutory order’ in Section 397(2) has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in S.397. Thus, for instance orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under section 397(2). But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court case law referred to.”

In similar situation, in the decision reported in **K.K.Patel and another Vs. State of Gujarat and another**², the Hon'ble Apex Court held as follows:

“It is now well-neigh settled that in deciding whether an order challenged is interlocutory or not as for Section 397(2) of the

¹ AIR 1977 SC. 2185

² AIR 2000 SC 3346

Code, the sole test is not whether such order was passed during the interim stage. The feasible test is whether by upholding the objections raised by a party, would it result in culminating the proceedings, if so any order passed on such objections would not be merely interlocutory in nature as envisaged in Section 397(2) of the Code.”

In another decision reported in **Mohan Lal Magan Lal Thacker Vs. State of Gujarat**³, the Hon’ble Apex Court after considering various judgments of Federal Court and Privy Council, defined the word ‘interlocutory order’ and held as follows:

“(i) A judgment or order may be final for one purpose and interlocutory another or final as to part and interlocutory as to part. The meaning of the two words ‘final’ and ‘interlocutory’ is, therefore to be considered separately in relation to the particular purpose for which it is required. However, generally speaking a judgment or order which determines the principal matter in question is termed final. It may be final although it directs enquiries or is made on an interlocutory application or reserves liberty to apply. [687 H; 688 A, B].

Salaman Vs. Warner [1891] 1 Q.B. 734, Standard Discount Co. Vs. La Grange [1877] 3 C.P.C. 67, A.Great Eastern Rail Co. [1879] 27 W.R. 759, Shutrook Vs. Tufnell [1882] 9 Q.B.D. 621, Bozson Vs. Altrincham Urban Council [1903] 1 K.B. 547, Abdul Rehman Vs. The Kind [1947] Cassim & Sons Vs. 60 IA 76, S.Kuppusami Rao Vs. King [1497] F.C.R. 180, Mohammad Amin Brothers Ltd. Vs. Dominion of India [1949] F.C.R. 842, Sardar Svedna Taher Saifuddin Saheb Vs. The State of Bombay [1958] S.C.R. 1007, Jethainand and Sons Vs. The State of Uttar Pradesh [1961] 3 S.C.R. 754,

³ AIR 1968 SC. 733

Premchand Satramadas Vs. State of Bihar [1950] S.C.R. 799, State of Uttar Pradesh Vs. Sujan Singh [1964] 7 S.C.R. and State of Orissa Vs. Madan Gopal [1952] S.C.R. 28, referred to.

(ii) The order of the High Court in the present case disposed of the controversy whether the filing of the complaint against the appellant was justified. The finality of that order was not to be judged by co-relating that order with the controversy in the controversy viz., whether the appellant had committed the offence charged against him therein. The fact that the controversy remained alive was irrelevant. Consequently the order passed by the High Court in the revision filed by the appellant was final order within the meaning of Art. 134(1)(c). [693 D-H] Ramesh Vs. Patni [1966] 3 S.C.R. 198, relied on.

(iii) ”

If those principles are applied to the present facts of the case, the order under challenge is purely interlocutory in nature, which would not culminate or terminate the entire proceedings, pending before the Court below and against the said interlocutory order no revision is maintainable in view of interdict contained under Section 397 (2) of Cr.P.C.

Accordingly, the Criminal Revision Case is dismissed as not maintainable.

The Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

August 18, 2017
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



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