

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9977 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure to quash the order dated 08.09.2017 passed in CrI.M.P.No.2800 of 2017 in C.C.No.571 of 2015 on the file of the Additional Judicial First Class Magistrate, Avanigadda, Krishna District dismissing the petition under Section 311 of the Code of Criminal Procedure (Cr.P.C.) to summon witness, who is the Branch Manager of SBI, Kuchipudi Branch.

The trial Court dismissed the petition assigning its own reasons and aggrieved by the said order, the petitioner allegedly filed a revision under Section 397 Cr.P.C., which was rejected on the ground that the revision is not maintainable against an interlocutory order in view of the bar under Section 397 Cr.P.C.

The present petition is filed under Section 482 Cr.P.C. but the Full Bench of the Apex Court in **Girish Kumar Suneja v. CBI**¹ held as under.

“...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 view of the law declared by the Apex Court, the Criminal Petition is not maintainable against an order passed under Section

¹ AIR 2017 SC 3620

311 Cr.P.C. Consequently, the Criminal Petition is liable to be dismissed.

In the result, the Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

31st October 2017
RRB

