

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3007 of 2017

ORDER:

The present criminal revision case is filed aggrieved over the order dated 21.09.2017 in CrI.M.P.No.1348 of 2017 in DVC.No.172 of 2015 on the file of the IV Metropolitan Magistrate, Hyderabad, whereby and whereunder, the request to recall RW.1 for the purpose of marking divorce certificate along with its translation, was refused dismissing the application filed under Section 311 of the Code of Criminal Procedure, 1973 (for short, 'the Code').

The main submission of the learned counsel for the revision petitioner is that the divorce certificate issued by Qazi is relevant for the purpose of resolving the controversy between the parties, but, somehow, the Court below, overlooking the importance of the said certificate, rejected the request. Therefore, requests to set aside the order under challenge by recalling RW.1 and re-examining him for the purpose of marking divorce certificate along with its translation.

A perusal of the order under challenge would clearly show that the learned Metropolitan Magistrate, who dealt with the matter, has in clear terms stated that the case was coming up for arguments and at that stage, the application was filed. Of course, that is not the ground on which the application was dismissed. The ground on which the application was dismissed is that when the divorce declaration deed as well as receipt of such declaration, which are exhibited as Exs.R1 and R2, were clearly admitted in the cross-examination by PW.1, the question of recalling

RW.1 and re-examining him for the purpose of marking the divorce certificate does not arise. More so, in **Sethuraman v. Rajamanickam**¹, the Honourable Supreme Court held that against both the orders, i.e., one on the application under Section 91 of the Code for production of documents, and other on the application under Section 311 of the Code for recalling the witness, revision petition under Section 397 of the Code is not maintainable. Even otherwise, there is no merit in the present revision in view of the admission made by PW.1 in her cross-examination as to divorce declaration deed and the receipt thereof. Learned counsel for the revision petitioner places authorities as regards the maintainability of the revision. However, it is unnecessary to refer to them, as merits of the case are gone into in deciding the present revision.

Hence, the present Criminal Revision Case is dismissed.

Miscellaneous applications, if any pending in the present revision case, stand closed.

JUSTICE A.SHANKAR NARAYANA

27.11.2017

v v

¹ 2009 (1) ALD (Cri.) 871 (SC)