

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.15853 of 2014

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. for quashing the order dated 28.10.2014 in CrI.M.P. No.2509 of 2014 in C.C. No.87 of 2013 on the file of the I Additional Chief Metropolitan Magistrate, Hyderabad whereunder the learned Magistrate dismissed petition filed under Section 311 Cr.P.C. by the prosecution to recall L.W.8-J.Sreenu, Sub Inspector of Police.

2. Heard the learned counsel for the petitioner-*de facto* complainant, the learned Assistant Public Prosecutor for respondent No.1-State and the learned counsel for respondent No.2-accused, apart from perusing the material available on record.

3. In view of the decision rendered by a Full Bench of the Hon'ble Supreme Court in **Girish Kumar Suneja v. C.B.I.**¹, where a revision to the High Court against the interlocutory order of the Subordinate Court is expressly barred under sub-section (2) of Section 397 Cr.P.C., the inherent powers contained in Section 482 Cr.P.C. are not available to defeat the bar contained in Section 397(2) Cr.P.C. As per Section 397(2) Cr.P.C., the powers of revision conferred under sub-section (1) of Section 397 Cr.P.C. shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceedings. The power of this Court to entertain a revision is severely curtailed by sub-section (2) of Section 397 Cr.P.C. in respect of interlocutory orders passed in any appeal, inquiry, trial or other proceedings. When there is

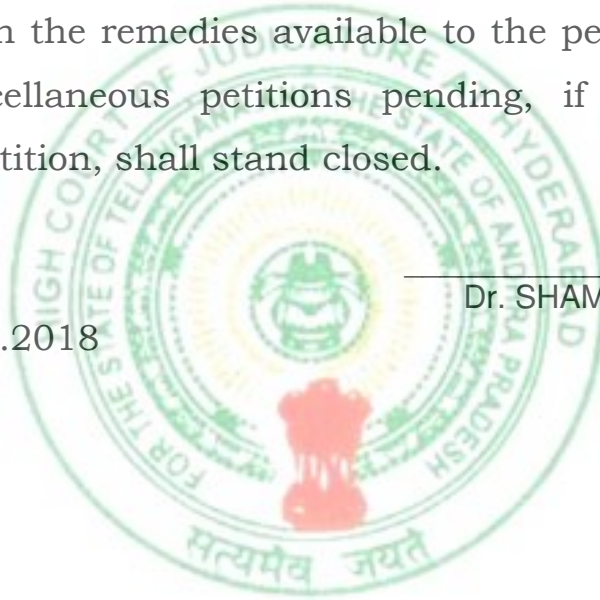
¹ AIR 2017 SC 3620

an express bar under sub-section (2) of Section 397 Cr.P.C., the parties cannot resort to the provisions under Section 482 Cr.P.C. to redress the grievance. The decision rendered in **Girish Kumar Suneja's** case (supra 1) holds the field. Since the impugned order is an interlocutory order and as there is bar under Section 397(2) Cr.P.C. to file a revision against an interlocutory order, the petitioner cannot seek similar remedy under Section 482 Cr.P.C. Under these circumstances, the Criminal Petition is liable to be dismissed.

4. Accordingly, this Criminal Petition is dismissed leaving open the remedies available to the petitioner under law. Miscellaneous petitions pending, if any, in this Criminal Petition, shall stand closed.

Date: 05.02.2018
DRK

Dr. SHAMEEM AKTHER, J



HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.15853 of 2014



05.02.2018

