

HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.2383 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. for quashing the order dated 24.01.2018 passed in CrI.M.P.No.1378 of 2017 in C.C. No.13 of 2016 on the file of the XXIV Special Magistrate, Hyderabad, wherein the learned Magistrate dismissed the petition filed under Section 311 Cr.P.C. to receive the documents.

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

3. The case and contention of the petitioner-*de facto* complainant are that the impugned order is contrary to law and facts; there is necessity to receive the documents for proper adjudication of the case; the learned Magistrate erroneously dismissed the petition and ultimately, prayed to allow this application by setting aside the impugned order passed by the learned Magistrate.

4. On the other hand, learned Assistant Public Prosecutor opposed the relief sought by the petitioner-*de facto* complainant.

5. In view of the contentions put forth by both sides, the point for determination is, whether the request of the petitioner can be acceded to?

6. 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

¹ AIR 2017 SC 3620

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 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.

7. Accordingly, this Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall also stand dismissed.

DR. SHAMEEM AKTHER, J

DATED: 27-02-2018

Hsd