

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.6408 OF 2018

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to set aside the order dated 18.05.2018 in CrI.R.P.No.225 of 2017 passed by the Metropolitan Sessions Judge, Hyderabad, whereby the learned Sessions Judge set aside the order 19.04.2017 in Crime No.96 of 2017 passed by the XII Additional Chief Metropolitan Magistrate, Hyderabad.

The petitioner and other accused persons were arrested in connection with Crime No.96 of 2017 registered for the offence punishable under Sections 406 and 420 of the Indian Penal Code, 1860 and Section 66 (C) (D) of Information Technology Act, 2001 and they were produced before the Judicial Magistrate along with the remand report. The learned Magistrate released the petitioner and other accused persons on bail on execution of personal bond for a sum of Rs.5,000/- each, since the investigating agency failed to comply the procedure provided under Section 41-A Cr.P.C. before affecting the arrest of the petitioner and other accused persons.

Aggrieved thereby, the State preferred the criminal revision before the Metropolitan Sessions Judge, Hyderabad. Considering the material available on record, remand report and check list therein, the learned Sessions Judge set aside the order impugned in the revision.

Challenging the same, the present criminal petition is filed mainly on the ground that the order passed by the learned Sessions Judge setting aside the order passed by the learned Magistrate in

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Crime No.96 of 2017 is unsustainable since it is interlocutory in nature against which no revision is maintainable in view of bar under Section 397(2) Cr.P.C. and prayed to set aside the order.

During hearing, Sri Maniklal Yadav, learned counsel for the petitioner mainly demonstrated that the order under challenge before the Sessions Judge is virtually interlocutory in nature, against which no revision is maintainable and prayed to quash the order passed by the learned Sessions Judge.

The learned Public Prosecutor (TG) supported the order passed by the learned Sessions Judge in all respects.

In any view of the matter, in **Sethuraman v. Rajamanickam**¹ the Apex Court made it clear that the revision is not maintainable against the interlocutory orders.

Hence, the order passed by the learned Sessions Judge, in Crl.R.P.No.225 of 2017 is vitiated by illegality, since the order under challenge before him is not revisable in view of bar under Section 397(2) Cr.P.C.

Accordingly, the criminal petition is allowed setting aside the order dated 18.05.2018 passed by the Metropolitan Sessions Judge, Hyderabad, in Crl.R.P.No.225 of 2017.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

21.06.2018
BV

¹ (2009)5 SCC 153