

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.2377 of 2011

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C by the petitioners/accused aggrieved by the order dated 16.11.2011 in CrI.M.P.No.4046 of 2011 in C.C.No.19 of 2007 passed by the learned VIII Additional Chief Metropolitan Magistrate, Hyderabad, dismissing the petition filed by the accused under Section 91 Cr.P.C to issue summons to M/s. Vandana Corporation to produce the account statement of the respondent/complainant.

2) When the matter came up for hearing there is no representation on behalf of petitioners. Learned counsel for 1st respondent Sri K.Venu Madhav, present.

3) Learned counsel for 1st respondent *inter alia* argued that the order impugned being an interlocutory order, no Criminal Revision Case is maintainable against the said order.

4) In the light of the said argument, a perusal of the impugned order shows that the Trial Court dismissed the petition filed under Section 91 Cr.P.C by the petitioners/accused to issue summons to M/s.Vandana Corporation to produce the accounts statement of the respondent/complainant. Therefore, the order impugned is an interlocutory order. Against the said order, revision is not maintainable in view of the interdict contained in Section 397(2) Cr.P.C. Under similar circumstances, in

Sethuraman v. Rajamanickam¹, when the Trial Court refused to issue direction under Section 91 Cr.P.C to produce Bank Pass Books, Income Tax Accounts and the L.D.S deposit receipts of the appellant, the High Court of Madras set aside the order and allowed the said petition and some other petitions. Deprecating the same, Hon'ble Apex Court observed thus:

*“**Para 4:** Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C. The Trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the application under Section 91 Cr.P.C. for production of documents and other on the application under Section 311 Cr.P.C. for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable.”*

Needless to emphasize, the above decision of Hon'ble Apex Court applies with all its force to the case on hand.

5) Accordingly, this Criminal Revision Case is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 22.10.2018

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¹ MANU/SC/0408/2009 = (2009) 5 SCC 153