

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRL.RC.No.848 of 2013

ORDER:

This criminal revision case is filed by the complainant aggrieved by order dated 09.04.2013 in Criminal M.P.No.1099 of 2012 in Criminal Appeal No.722 of 2012, passed by the learned I Additional Metropolitan Sessions Judge, Hyderabad, dismissing the petition filed by the complainant under Section 391 Cr.P.C., seeking permission to lead additional evidence on his behalf by producing his income tax returns pertaining to the year 2010-2011.

2. When the matter came up for hearing, the learned counsel would submit that pursuant to the judgment of the Division Bench of this Court in P.VIJAYA LAXMI VS. S.P.SRAVANA AND OTHERS¹, holding that a complainant in a case under Section 138 of Negotiable Instruments Act, is not a victim within the meaning of Section 2 (wa) of Cr.P.C. and consequently is not entitled to file an appeal under Section 372 of the Code before the court where an appeal lies against conviction and as such, his remedy is only to prefer an appeal under Section 378 (4) of Cr.P.C. with special leave, his criminal appeal No.722 of 2012 was returned by the Court of I Additional Metropolitan Sessions Judge, Hyderabad, for representing before the High Court and the order passed in Criminal M.P.No.1099 of 2012 is also not maintainable for want of jurisdiction and, therefore, the criminal revision case may be closed, giving a liberty to the petitioner to raise the said issue before the High Court when his appeal comes up for hearing.

¹ 2018(1) ALD (CrL) 370 (AP)

3. Learned counsel for respondent No.2 Mr.Maheswara Rao Kunchem, submits that since the impugned order was passed long prior to the judgment of the Division Bench in P.Vijayalakshmi case (supra), the order cannot be said to be non-est in the eye of law. However, the learned counsel would submit, in case liberty is given to the petitioner to question the validity of the impugned order in Criminal M.P.No.1099 of 2012, permission may be given to the respondent No.2 also to contend that the order was very much maintainable.

4. In view of the above respective submissions of both the learned counsel, this criminal revision case is closed without rendering any opinion on the validity of the order in Criminal M.P.No.1099 of 2012, but however, giving liberty to both the parties to advance their respective arguments before the Bench which is going to deal with the criminal appeal.

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

U.DURGA PRASAD RAO, J

Date: 20.12.2018

Note:
Issue cc by 24.12.2018
(B/o.)
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