

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 9690 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure to quash the order dated 11-08-2017 in Criminal Revision Petition No. 25 of 2017 on the file of the Court of IV Additional District and Sessions Judge, Kurnool (for short, 'the Court below').

2. Respondent No. 2-G.Madhavi filed Criminal M.P.No. 333 of 2017 on the file of the Court of Judicial Magistrate of I Class (Special Mobile Court), Kurnool (for short, 'the trial Court'), under Section 311 of Cr.P.C. to recall P.W.1 for marking medical certificate. The trial Court by order dated 20-02-2017 dismissed the above M.P. Feeling aggrieved, respondent No. 2 preferred revision before the Court below. The Court below by the impugned order allowed the revision setting aside the order passed by the trial Court.

3. Aggrieved thereby, the petitioner-complainant filed the present petition on the ground that the order passed by the trial Court is not revisable and hence exercising jurisdiction by the Court below is contrary to the law declared by the Apex Court in ***Sethuraman Vs. Rajamanickam***¹.

4. As seen from the material on record, the order passed by the trial Court is purely interlocutory in nature, against which no revision is maintainable in view of the bar under Section 397 (2) of Cr.P.C. The Apex Court in ***Sethuraman*** (*supra*) categorically held that an order passed under Section 311 or 91 of Cr.P.C. is interlocutory in nature and in view of the interdict contained under Section 397 (2) of Cr.P.C., the same is not amenable to revisional jurisdiction under Section

¹ 2009 CRIMINAL L.J. 2247

397 (1) of Cr.P.C. Therefore, the order passed by the Court below is without jurisdiction in view of the law declared by the Apex Court in **Sethuraman** (*supra*) and the same is liable to be set aside and is accordingly set aside.

5. The criminal petition is allowed. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 04-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

