

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 7966 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioner-accused to quash the order dated 05-07-2018 in Criminal Revision Petition No. 206 of 2017 on the file of the Court of XIV Additional District and Sessions Judge, R.R. District at L.B. Nagar, Hyderabad (for short, 'the Court below').

2. The respondent State filed Criminal M.P.No. 1419 of 2017 in C.C.No. 414 of 2014 on the file of the Court of XIV Metropolitan Magistrate, Cyberabad at L.B. Nagar (for short, 'the trial Court'), under Section 311 of Cr.P.C. to summon one Nagarani, Computer Operator, for the purpose of examination as a witness. The trial Court by order dated 10-07-2017 dismissed the above miscellaneous petition. Feeling aggrieved, respondent No. 2- *de facto* complainant filed Criminal Revision Petition No. 206 of 2017 before the Court below. By the impugned order, the Court below **allowed** the revision setting aside the order passed by the trial Court. Aggrieved thereby, the petitioner-accused filed the present petition.

3. At the hearing, while learned counsel for the petitioner has contended that revision is not maintainable against an order passed in a petition filed under Section 311 of Cr.P.C. and therefore the impugned order is illegal, learned counsel for respondent No. 2 supported the order under challenge in all respects.

4. As seen from the material on record, the order passed by the trial Court is purely interlocutory in nature, against which no revision lies in view of the bar

contained under Section 397 (2) of Cr.P.C. This view is fortified in ***Sethuraman Vs. Rajamanickam***¹, wherein it is held that order passed either under Section 311 or 91 of Cr.P.C. is interlocutory in nature, against which no revision lies in view of the bar under Section 397 (2) of Cr.P.C. Applying the principle laid down in the above judgment to the present facts of the case, the very maintainability of the revision before the Court below is illegal. Therefore, the impugned order is liable to be set aside and is accordingly set aside.

5. The criminal petition is allowed quashing the order dated 05-07-2018 in Criminal Revision Petition No. 206 of 2017 on the file of the Court of XIV Additional District and Sessions Judge, R.R. District at L.B. Nagar, Hyderabad. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 30-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

¹ 2009 Cri.L.J. 2247

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DATE: 30TH JULY, 2018

JSK