

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 9190 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 No. 1 to quash the order dated 08-08-2018 in Criminal Revision Petition No. 137 of 2018 on the file of the Court of Metropolitan Sessions Judge, Hyderabad (for short, 'the Court below').

2. The petitioner is accused No. 1 in C.C.No. 19 of 2018 (new case number) on the file of the Court of Special Judicial I Class Magistrate, Hyderabad (for short, 'the trial Court'), registered for the offence punishable under Section 497 of IPC. The petitioner filed an application under Section 239 of Cr.P.C. in the abovementioned C.C. to discharge him and the same was dismissed by the trial Court by order dated 28-03-2018. Feeling aggrieved, the petitioner preferred revision before the Court below. By the impugned order, the Court below dismissed the revision. Aggrieved thereby, the present petition is filed.

3. The order passed by the trial Court is interlocutory in nature, against which no revision lies in view of the bar contained under Section 397 (2) of Cr.P.C. but the Court below maintained revision and passed the order under challenge. 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. The impugned order is therefore liable to be set aside and is set aside.

¹ 2009 CrI.L.J. 2247

5. The criminal petition is allowed quashing the order dated 08-08-2018 in Criminal Revision Petition No. 137 of 2018 on the file of the Court of Metropolitan Sessions Judge, Hyderabad. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 29-08-2018.

M.SATYANARAYANA MURTHY, J.

JSK

