

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10797 OF 2018

ORDER:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code') is filed by the petitioner - owner of the property viz., A. Laxminarayana @ Thirupathaiah, to set aside the order, dated 30.07.2018, passed in Criminal Revision Petition No.8 of 2018, by the learned Principal District and Sessions Judge, Mahabubnagar, whereby affirmed the order, dated 31.10.2017, passed in CrI.M.P. No.2251 of 2017 in Crime No.135 of 2017 of Bhoothpur Police Station, by the learned Judicial Magistrate of First Class, Jadcherla filed under Section 457 of the Code.

2. Undisputedly, the petitioner herein filed a petition under Section 457 of the Code, though there is a mistake in the first paragraph of the order in the petition which was dismissed by the trial Court negating the interim custody of the property during pendency of the investigation.

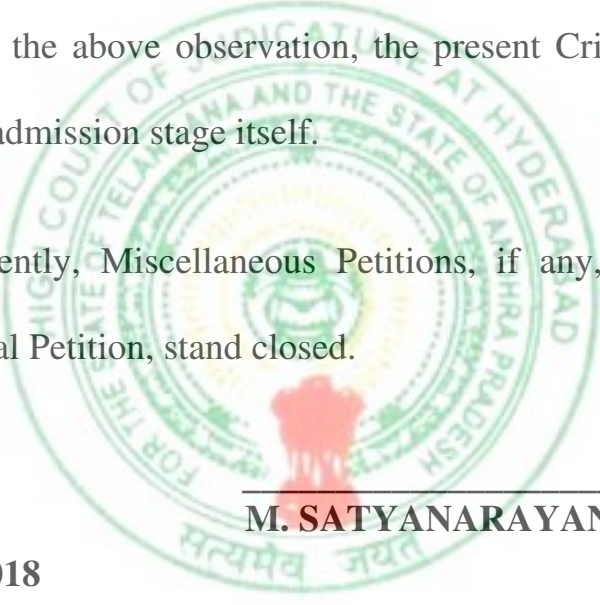
3. Aggrieved by the order passed by the learned Magistrate in CrI.M.P. No.2251 of 2017, a revision is filed under Section 397 (1) of the Code. But, entertaining a revision by the Sessions Judge is a serious irregularity in view of bar under Section 397 (2) of the Code, and the law declared by the Hon'ble Supreme Court in **Sethuraman v.**

Rajamanickam¹. Therefore, on this sole ground that revision is not maintainable against an order passed under Section 457 or 451 of the Code, the order is liable to be set aside.

4. Accordingly, the impugned order, dated 30.07.2018, passed by the learned Principal District and Sessions Judge, Mahabubnagar in Criminal Revision Petition No.8 of 2018 is hereby set aside. However, liberty is given to file an appropriate application depending upon the stage of proceedings.

5. With the above observation, the present Criminal Petition is allowed at the admission stage itself.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition, stand closed.



M. SATYANARAYANA MURTHY, J

October 10, 2018

Mgr

¹ 2009 CrL.J. 2247