

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE No.3328 of 2018

ORDER :

This Criminal Revision Case is arising out of the docket order dated 24.10.2018 in C.C.No.119 of 2014 passed by the XII Special Magistrate, Erramanzil, Hyderabad.

The revision petitioners are Accused Nos.6 to 8 and 10 to 13 against whom C.C.No.119 of 2014 is registered on the complaint of respondent No.1 under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioners submits that the petitioners have filed Criminal Petition No.14033 of 2014 under Section 482 of Cr.P.C. questioning the summons issued by the trial Court in C.C.No.119 of 2014, wherein stay has been granted by this Court and the criminal petition is still pending. It is further submitted that in view of the directions issued by the Hon'ble Supreme Court in Criminal Appeal No.1375-1376 of 2013 and batch, dated 28.03.2018, the order of stay granted by this Court shall stand vacated on expiry of six months and unless extension is granted by a speaking order as per the directions of the Hon'ble Supreme Court. The trial Court on coming to the conclusion that there is no extension of interim stay and accordingly ordered for

appearance of the petitioners i.e., A.6 to A.8 and A.10 to A.13 before the trial Court.

Learned counsel for the petitioners further submits though stay has been granted by this Court and the criminal petition is pending, the trial Court is proceeding further by directing the petitioners to appear before the trial Court, as there is no extension of stay after expiry of six months, as per the directions issued by the Hon'ble Supreme Court in Criminal Appeal No.1375-1376 of 2013 and batch, dated 28.03.2018.

Heard learned counsel for the petitioners and perused the order under challenge.

The petitioners cannot invoke two provisions under Sections 482 as well as 397 of Cr.P.C. for the same relief by filing separate petitions. When the petition filed under Section 482 Cr.P.C. is pending, the present revision filed under Section 397 Cr.P.C. is not maintainable for the same relief.

The Hon'ble Supreme Court in para-36 of its order in Criminal Appeal No.1375-1376 of 2013 and batch, dated 28.03.2018, observed as under:

“In all pending matters before the High Courts or other Courts relating to PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order in above parameters.”

From the above, it could be seen that as far as the relief claimed by the petitioners in this revision is concerned, since the petitioners have already filed Criminal Petition No.14033 of 2014 questioning the summons issued by the trial Court in C.C.No.119 of 2014 and obtained stay, and as per the directions of the Hon'ble Supreme Court in Criminal Appeal No.1375-1376 of 2013 and batch, dated 28.03.2018, unless said stay is extended by a speaking order, the stay will automatically lapse after expiry of six months. Therefore, in view of the interim stay granted by this Court in Criminal Petition No.14033 of 2014, the present revision is not maintainable. The petitioners are given liberty to avail appropriate remedy available to them under law.

With these observations, this Criminal Revision Case is disposed of.

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

GUDISEVA SHYAM PRASAD, J

20.12.2018
Msr

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