

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.1181 OF 2014

JUDGMENT:

This Criminal Appeal, under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the appellant/complainant aggrieved by the judgment, dated 06.01.2014, rendered in Criminal Appeal No.147 of 2012 on the file of V Additional District and Sessions Judge (Fast Track Court), Ranga Reddy District, whereunder and whereby, the learned Sessions Judge confirmed the judgment, dated 27.02.2012, in Calendar Case No.18 of 2011 on the file of IX Special Magistrate, L.B.Nagar at Hasthinapuram, Ranga Reddy District, in dismissing the aforesaid Calendar Case.

2. Heard the learned counsel for the appellant/complainant and the learned counsel for the 1st respondent/accused. Perused the record.

3. The question that fell for consideration in this appeal is against the impugned judgment whether an appeal is maintainable?

4. In the course of submissions, it is brought to the notice of this Court that the appellant/complainant filed CrI.R.C.No.1225 of 2014 and the same was disposed of by this Court on 16.06.2014 with the following observation:

“In view of efficacious provision available under law, Registry is directed to return the papers to the learned Counsel for the petitioner for re-submission of the same as appeal with leave under Section 378 (4) Cr.P.C. before the concerned Court pursuant to this order and not a revision”.

5. In this regard, it is appropriate to extract the provisions of Section 378 (4) Cr.P.C.

If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

From the above provision, it is clear that from an order of acquittal passed in any case instituted upon a complaint, an appeal is required to be filed under Section 378 (4) Cr.P.C. before this Court. Here, the Judgment under challenge is passed by the Court of Sessions. Hence, Section 378 (4) Cr.P.C. has no application to the facts and circumstances of the case. The appropriate remedy is only revision under Sections 397 and 401 Cr.P.C. In the circumstances of the case, the valuable right of the appellant/complainant to file a criminal revision cannot be denied. Therefore, liberty is granted to the appellant/complainant to workout the remedies available under law.

6. With these findings and observations, the Criminal Appeal is disposed of.

Miscellaneous Petitions, if any, pending in this Criminal Appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

JANUARY 22, 2019
YVL

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.1181 OF 2014

JANUARY 22, 2019

YVL