Sethuraman Vs Rajamanickam

Court: Supreme Court of India

Date of Decision: March 18, 2009

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€" Section 200, 311, 397, 397(2), 91

Citation: (2009) 1 ALD(Cri) 871 : (2009) CriLJ 2247 : (2009) 2 CTC 660 : (2009) 4 JT 164 : (2009) 43 OCR 97 : (2009) 1 OLR 915 : (2009) 3 SCALE 840 : (2009) 5 SCC 153 : (2009) 4 SCR 510

Hon'ble Judges: V. S. Sirpurkar, J; Tarun Chatterjee, J

Bench: Division Bench

Advocate: S. Ravi Shankar, Yamunah Nachiar and Jaya Kedia, for the Appellant; Manish Kumar Saran, for the Respondent

Final Decision: Dismissed

Judgement

V.S. Sirpurkar, J.
Leave granted.

2. In these appeals, the common order passed by the Learned Single Judge of the Madras High Court in three Criminal Revisions, is in challenge.

By the instant order, the Learned Single Judge set aside the three orders passed by the Trial Court dated 26.7.2004 in Crl.M.P. No. 3057 of

2004 in C.C. No. 216 of 2003 and dated 1.4.2004 in Crl.M.P. Nos. 4184 and 4185 of 2004 in C.C. No. 215 of 2003, and allowed those

Crl.M.Ps. Shortly stated, the appellant herein had filed a criminal complaint u/s 200 of the Code of Criminal Procedure (hereinafter referred to as

`Cr.P.C." for short), complaining therein that a cheque signed by the respondent and given for returning the amount of Rs. 2 lakhs, which was a

loan, was bounced and inspite of the notice given thereafter, the accused (respondent herein) had failed to return the money. A Trial ensued on the

basis of this complaint and the complainant (appellant herein) was examined as a first witness for the prosecution on 24.8.2004. He was cross-

examined also. On 20.9.2004, the respondent herein filed applications u/s 91 Cr.P.C. and Section 311 Cr.P.C., seeking directions to produce the

Bank Pass Books, Income Tax Accounts and the L.D.S. deposit receipts of the appellant, as also for recalling him for cross- examination. This

was objected to by a Reply dated 24.9.2004. The Court passed an order on 1.10.2004, rejecting the applications made by the

respondent/accused. The respondent/accused filed Criminal Revisions before the High Court u/s 397 Cr.P.C. and the High Court, by the

impugned common order, proceeded to allow the same. It is this order, which has fallen for consideration before us in these appeals.

3. Very strangely, the High Court did not even issue notice to the appellant/complainant, on the spacious ground that the production of the

documents, which was sought for by the accused, would cause no prejudice to the appellant/complainant. We fail to understand this logic. After

all, if the documents in possession of the appellant/complainant, which were his personal documents, sought for by the accused and the production

of which was rejected by the Trial Court, and which were ordered to be produced by the High Court, at least a hearing should have been given to

the appellant/complainant. He could have shown, firstly, that no such documents existed or that there was no basis for the production of those

documents, particularly, in view of the fact that he was not even cross-examined in respect of those documents. On this ground, the order of the

High Court would have to be set aside.

4. Secondly, what was not realized was that the order passed by the Trial Court refusing to call the documents and rejecting the application u/s

311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred u/s 397(2) Cr.P.C. The Trial Court, in its

common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was

that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that

the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the

application u/s 91 Cr.P.C. for production of documents and other on the application u/s 311 Cr.P.C. for recalling the witness, were the orders of

interlocutory nature, in which case, u/s 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have

interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside.

The appeals are allowed.