

Ranaj Kumar Machananda

Vs

State of Karnataka

Criminal Appeal No. 604 of 1987

23.11.1987

ORDER

1. Special leave granted.

2. Heard learned counsel for the parties. The respondent-State had challenged the order before the Court of Sessions when the learned Magistrate before whom the matter was proceeding directed release of petition of the appellant. The revisional court dismissed the petition of the State. A second revision did not lie at the instance of the State to the High Court in view of the provisions of Section 397 (3) of CrPC. Obviously, to avoid this bar, the application moved by the State before the High Court was stated to be under Section 482 CrPC asking for exercise of inherent powers. In exercise of that power, the High Court has reversed the order of the Magistrate as affirmed by the Sessions Judge. The question for consideration is as to whether the bar under Section 397 (3) CrPC should have been taken note of to reject the revision at the instance of the State Government or action taken by the High Court in exercise of its inherent power has to be sustained. It is not disputed by counsel appearing for the State the move before the High Court was really on application for revision of the order of the Magistrate releasing the truck. That is exactly what is prohibited under Section 397 (3) CrPC. Merely by saying that the jurisdiction of the High Court for exercise of its inherent power was being invoked the statutory bar could not have been overcome. If that was to be permitted every revision application facing the bar of Section 397 (3) of the Code could be labelled as one under Section 482. We are satisfied that this is a case where the High Court had no jurisdiction to entertain the revision. The appeal, is allowed and we set aside the order of the High Court. The order of the Magistrate as affirmed by the Sessions Judge is upheld.

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