

In Re: Govinda Naicker

In Re: Govinda Naicker

SooperKanoon Citation : sooperkanoon.com/808652

Court : Chennai

Decided On : Jun-04-1975

Reported in : 1976CriLJ1135

Judge : Suryamurthi, J.

Appellant : In Re: Govinda Naicker

Judgement :

ORDER

Suryamurthi, J.

1. This is a petition under Section 482 Cr. P.C., and Article 227 of the Constitution of India against the order made in Cr. R. P. No. 10 of 1974 dated 25-4-1975 by the Sessions Judge, Vellore, confirming the sentence made in C, A. No. 206 of 1974 by the Chief Judicial Magistrate, Vellore, confirming the sentence made in C. C. No. 848 of 1974 by the Judicial Second Class Magistrate, Ambur.

2. The question to be considered is whether a revision is maintainable under Article 227 of the Constitution of India, and Section 482 of Cr. P.C., in view of the provisions of Section 397(3) Cr. P.C.

3. As an application under Section 397 Cr. P.C. made to the Sessions Judge of Vellore has been dismissed and as Sub-section (3) of Section 397 of the Cr. P.C., is a bar to a further application under Section 397 Cr. P.C., being made to this

Court, the question whether Sub-section (3) of Section 393 Cr. P.C., is repugnant to the provisions of Article 227 of the Constitution and therefore void has been raised by the learned Counsel for the petitioner.

4. There is in fact no conflict between the provisions of Article 227 of the Constitution of India and Sub-section (3) of Section 397 Cr. P.C. Under Article 227 of the Constitution, this Court exercises superintendence over all courts and tribunals and has the power to interfere and to see that the Courts and tribunals exercise their functions within the limits of their authority. Under Article 227 of the Constitution, this Court exercises a supervisory and not an appellate jurisdiction, and considers the area of the inferior jurisdiction and the qualifications and conditions of its exercise. An error of law apparent on the face of the record, is also subject to correction by this Court exercising its powers under Article 227 of the Constitution. However, this power does not justify an interference with concurrent findings of fact. When exercising its powers under Section 397 Cr. P.C. this Court can consider the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and the regularity of any proceedings of such inferior court. There is, thus no conflict, real or apparent, between the provisions of Section 397 Cr. P.C., and Article 227 of the Constitution. In the instant case there is no error of law apparent on the face of the record. Whether there was a wrongful exercise of jurisdiction also does not arise for consideration.

5. Hence this petition is rejected.