

Akanksha Arora

v.

Tanay Maben

(Criminal Appeal No(s). 5004 of 2024)

04 December 2024

[Pankaj Mithal and Sandeep Mehta, JJ.]

Issue for Consideration

Whether the High Court can convert the petition u/s.482 CrPC into a revision u/s.397 CrPC and decide it as per law; Whether s.397 CrPC can affect the amplitude of the inherent powers of the High Court u/s. 482 CrPC.

Headnotes[†]

Code of Criminal Procedure, 1973 – s.482 and s.397 – Appellant-wife filed a petition u/s.482 CrPC in the High Court seeking enhancement of interim maintenance – The said petition has been dismissed by the High Court by the order impugned on the ground that it is not maintainable as the appellant-wife has a remedy of a revision u/s.397 CrPC – Correctness:

Held: In a catena of decisions, it has been provided that nomenclature of a petition is immaterial and for doing substantive justice, the High Court can always convert a petition u/s.482 CrPC to a revision u/s.397 CrPC and vice versa – The approach of the High Court in dismissing the petition filed by the appellant u/s.482 CrPC on the hyper technical ground that she had to avail the remedy of revision cannot be appreciated – Nothing in CrPC, not even s.397, can affect the amplitude of the inherent powers preserved in so many terms by the language of s.482 CrPC – Even if the High Court was of the view that the appellant should have invoked the jurisdiction u/s.397 CrPC for seeking enhancement of interim maintenance, it ought not to have non-suited the appellant only on the ground of alternative remedy – The judicious approach would have been to convert the petition u/s.482 CrPC into a revision u/s.397 CrPC and to have decided the same as per law – Therefore, the impugned order of the High Court is set aside and the matter is remanded to the High Court with a further direction to convert the petition u/s.482 CrPC as a criminal revision u/s.397 CrPC and decide it in accordance with law after affording opportunity of hearing to the parties. [Paras 7, 9, 10, 11]

Akanksha Arora v. Tanay Maben**Case Law Cited**

Madhu Limaye v. The State of Maharashtra [1978] 1 SCR 749 : (1977) 4 SCC 551; Prabhu Chawla v. State of Rajasthan and Another [2016] 4 SCR 281 : (1977) 4 SCC 551 – referred to.

List of Acts

Code of Criminal Procedure, 1973.

List of Keywords

Section 482 of Code of Criminal Procedure, 1973; Section 397 of the Code of Criminal Procedure, 1973; Enhancement of interim maintenance; Remedy of Revision; Inherent power of the High Court; Alternative remedy.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 5004 of 2024

From the Judgment and Order dated 21.09.2023 of the High Court of Madhya Pradesh Principal Seat at Jabalpur in MCRLC No. 18481 of 2022

Appearances for Parties

Vatsal Joshi, Gurdeep Wadhwa, Akshay Amritanshu, Ms. Swati Mishra, Ms. Pragya Upadhyay, Ms. Drishti Saraf, Advs. for the Appellant.

Judgment / Order of the Supreme Court**Order**

1. Service of notice upon the respondent is complete, but no one has entered appearance on his behalf.
2. Leave granted.
3. We have heard learned counsel for the appellant.
4. The appellant by means of this appeal is assailing the judgment and order dated 21.09.2023 passed by the High Court of Jabalpur in Miscellaneous Criminal Case No.18481 of 2022 titled as 'Akanksha Arora vs. Tanay Maben.

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5. It appears that the Principal Judge, Family Court vide order dated 08.03.2022 in exercise of powers under Section 125 of the Code of Criminal Procedure, 1973 (for short 'the CrPC') had fixed interim maintenance in favour of the appellant.
6. Being dissatisfied with the quantum of interim maintenance, the appellant-wife had filed a petition under Section 482 CrPC in the High Court seeking enhancement. The said petition has been dismissed by the High Court by the order impugned on the ground that it is not maintainable as the appellant-wife has a remedy of a revision under Section 397 CrPC.
7. This Court has, in a catena of decisions, provided that nomenclature of a petition is immaterial and for doing substantive justice, the High Court can always convert a petition under Section 482 CrPC to a revision under Section 397 CrPC and vice versa. The approach of the High Court in dismissing the petition filed by the appellant under Section 482 CrPC on the hyper technical ground that she had to avail the remedy of revision cannot be appreciated because the same has unnecessarily compelled the appellant to approach this Court by way of this appeal filed under Article 136 of the Constitution of India.
8. In **Madhu Limaye v. The State of Maharashtra**,¹ this Court held that the label of a petition filed by an aggrieved party is immaterial. The High Court can always examine the controversy in an appropriate case in exercise of its inherent powers.
9. In **Prabhu Chawla v. State of Rajasthan and Another**,² this Court examined the relevant scope of Section 482 CrPC and Section 397 CrPC and held that nothing in CrPC, not even Section 397, can affect the amplitude of the inherent powers preserved in so many terms by the language of Section 482 CrPC. The inherent powers should not invade areas set apart for specific powers conferred under CrPC but there is no total ban on the exercise of inherent powers where abuse of process of Court or other extraordinary situation warrants exercise of inherent jurisdiction. The limitation is self-restraint, nothing more. **Availability of alternative remedy of criminal revision under Section 397 CrPC, by itself, cannot be a good ground to dismiss an application under Section 482 CrPC.**

1 [1978] 1 SCR 749 : (1977) 4 SCC 551

2 [2016] 4 SCR 281 : (1977) 4 SCC 551

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10. Viewed in light of the above precedents, we feel that even if the High Court was of the view that the appellant should have invoked the jurisdiction under Section 397 CrPC for seeking enhancement of interim maintenance, it ought not to have non-suited the appellant only on the ground of alternative remedy. The judicious approach would have been to convert the petition under Section 482 CrPC into a revision under Section 397 CrPC and to have decided the same as per law.
11. In view of the above, we dispose of the appeal by setting aside the impugned order of the High Court dated 21.09.2023 and remand the matter to the High Court with further direction to convert the petition under Section 482 CrPC as a criminal revision under Section 397 CrPC and decide it in accordance with law after affording opportunity of hearing to the parties.
12. The appeal stands disposed of accordingly.
13. Pending application(s), if any, shall also stand disposed of.

Result of the case: Appeal disposed of.

[†]Headnotes prepared by: Ankit Gyan