

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD.

CrI. Rev. A. No.S-103 of 2017.

Hakim Ali. Applicant.

Versus.

The State. Respondents.

Mr. Mazhar Ali Laghari, Advocate for the Applicant.

Ms. Safa Hisbani, APG.

Date of hearing and judgment: 11.06.2018.

JUDGMENT

IRSHAD ALI SHAH, J. The applicant by way of instant criminal revision application has impugned order dated 20.04.2017 of learned Ist. Assistant Sessions Judge, Sanghar, whereby his application under section 517 Cr.P.C. for return of his gun, the subject matter of case outcome of FIR Crime No.24/2016, under section 324, 353, 427 and 34 PPC of PS: Sinjhorro, was dismissed.

2. On being asked, how the instant criminal revision application could be maintained before this Court, as the order which is impugned is passed by the learned Assistant Sessions Judge?

3. In response to above, it was stated by the learned counsel for the applicant that entire revisional jurisdiction in criminal cases lies with this Court, if orders are passed by Sessions Judge, Additional Sessions Judge or Assistant Sessions Judge.

4. While rebutting the above contention, it was stated by learned APG, that the revisional jurisdiction against order of Assistant Sessions Judge lies with the Sessions Judge having jurisdiction.

5. I have considered the above arguments and perused the record.

6. Subsection 3 of section 17 of the code of criminal procedure is titled as “subordination of Assistant Sessions Judges to Sessions Judge”. The said provision reads as under:

“All Assistant Sessions Judges shall be subordinate to Sessions Judges whose Court they exercise jurisdiction and he may from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.”

The perusal of above section lays down that Assistant Sessions Judges shall be subordinate to Sessions Judge of the District within which they exercise jurisdiction; additionally Sessions Judge from time to time can frame rules for distribution of business among the Assistant Sessions Judges. It also lays down that an Assistant Sessions Judge has no original jurisdiction whatsoever, and his jurisdiction depend upon what the Sessions Judge devises for him and conversely the Sessions Judge can withdraw any case that may be pending on the file of Assistant Sessions Judge.

6. In case of **Abdul Rahim v. Abdul Rauf and others**, which is reported at **1983 PCr.LJ 1390** while dealing with similar question, the Division Bench of our own High Court observed that;

“ We are of the view that one of the main factors, which needs consideration in deciding questions of this nature is the venue of appeal. Normally, it can be said that the Court hearing an appeal against an order, or, judgment of another Court should be considered to be superior to that Court, and the concept of inferiority of Courts, as mentioned in section 435, Cr. P. C. can be decided on that rationals. In the present case also an Assistant Sessions Judge has to depend on the distribution of work that has to be done by the Sessions Judge, and appeals against the judgments of the Assistant Sessions Judge also lie to the Court of Sessions.”

8. The above discussion involves a conclusion that entire revisional jurisdiction against the orders of the Assistant Sessions Judges lies with

the Sessions Judge having jurisdiction. Consequently, the instant criminal revision application is dismissed for want of jurisdiction with opportunity to applicant to file the same afresh before the Sessions Judge having jurisdiction for its disposal in accordance with law.

J U D G E

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