

THE HON'BLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.2787 of 2015

ORDER

The present criminal revision case is directed against the docket order dated 01.09.2015 passed in Crl.M.P.No.3497 of 2014 in D.V.C.No.4 of 2013 by the learned XIX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur.

2. The second respondent herein filed D.V.C.No.4 of 2013 against the petitioners herein being her husband and mother-in-law, claiming the reliefs under Sections 18 to 22 of Domestic Violence Act. Seeing to quash the said proceedings, the petitioners filed Crl.P.No.7747 of 2013, wherein initially an interim stay of all further proceedings in DVC was granted and later, it was dismissed by this Court on 24.12.2014 dispensing with the presence of second petitioner herein before the trial Court on each and every date of adjournment except on the dates when her presence is so required. While so, due to absence of the respondents, the trial Court set the respondents *ex parte* on 13.11.2013. Hence, they filed Crl.M.P.No.3497 of 2014 under Section 25(2) of DVC Act seeking to recall the said *ex parte* order. By the order impugned, the trial Court while dismissing the said petition passed the following order;

“On perusal of record found there is no stay in this case. This petition filed by the petitioner without even signature of the counsel of the petitioner and without the affidavit of the deponent. The concerned Clerk is warned for not checking the petition properly. Hence, this petition is dismissed as not in proper format and filed without the signature”.

Challenging the same, the present revision is filed.

3. From a perusal of the order impugned, it is evident that the impugned application was filed without obtaining the signature of the counsel for the petitioners and without the affidavit of the deponent and is not in a proper

format. Considering the facts and circumstances of the case, this Court is of the view that an opportunity should be given to the petitioners to file a fresh affidavit in proper format. Therefore, the petitioners are directed to file an application afresh along with the affidavit in a proper format after duly obtaining the signatures of the concerned, and on filing such an application, the trial Court shall consider and dispose of the same in accordance with law.

4. Accordingly, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

26th November, 2015

sj