

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.12238 of 2015

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioners (respondent Nos.1 to 5 in DVC) to quash the proceedings in D.V.C.No.7 of 2015 (for short, 'DVC') on the file of Special Excise Judicial Magistrate of First Class, Ongole, Prakasam District.

2. The petitioners herein are respondents 1 to 5 and the second respondent is the petitioner in D.V.C.No.7 of 2015. A perusal of the record reveals that the second respondent filed a petition under Section 12(1) of the Protection of Women from Domestic Violence Act against the petitioners, claiming various reliefs under the Act. The learned Magistrate after taking the case on file and numbered it as D.V.C.7 of 2015 and issued summons to the petitioners. Hence the petitioners filed the present petition.

3. As per the principle enunciated in Valisetti Chandra Rekha v. State of Andhra Pradesh, Mohit Yadam v. State of Andhra Pradesh **and** Mohd. Akber Yaseen v. Rizwana Sultana, the reliefs sought under Sections 18 to 22 of the Act are purely civil in nature and there is no element of criminality.

4. In the instant case also the reliefs sought by the second respondent are purely civil in nature without any element of criminality. Whether the second respondent is entitled to claim reliefs against the petitioners or not has to be decided during the course of trial only. If this Court expresses any opinion touching the merits of the case, the same will cause prejudice to either of the parties. In such circumstances, the maintainability of the present petition under Section 482 Cr.P.C. is very much doubtful.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that it is not a fit case to quash the proceedings

against the petitioners/respondent Nos.1 to 5 in DVC.

6. Learned counsel for the petitioners submitted that the petitioners No.2 to 5 are facing much difficulty to attend the trial Court on each and every date of adjournment. Hence, their presence may be dispensed with.

7. There is no dispute with regard to the identity of the petitioners/respondents 2 to 5. Even if the presence of the petitioners 2 to 5 is dispensed with, no prejudice would be caused to the second respondent.

8 . Hence, the presence of the petitioners No.2 to 5, who are respondent Nos.2 to 5 in D.V.C.No.7 of 2015 on the file of the Court of Special Excise Judicial Magistrate of First Class, Ongole, Prakasam District, is hereby dispensed with on each and every date of adjournment. However, the petitioners 2 to 5/respondents 2 to 5 in DVC shall appear before the trial Court as and when their presence is so required.

9. With the above observation, the Criminal Petition is dismissed.

10. Consequently, Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

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T. SUNIL CHOWDARY, J

Date:23.11.2015

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