

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

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CRIMINAL PETITION No.12390 of 2015

ORDER:

1. This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners/respondent Nos.2 to 5 in D.V.C.No.4 of 2013 on the file of the Judicial Magistrate of First Class, Parchur, Prakasam District.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State.

3. A perusal of the record reveal that the second respondent filed a petition under Section 12 of the Protection of Woman from Domestic Violence Act, 2005, ('the Act', for brevity) claiming various reliefs from the petitioners herein. The learned Magistrate taken case on file, numbered it as D.V.C.No.4 of 2013 and issued summons to the petitioners herein.

4. As per the principle enunciated in ***Valisetti Chandra Rekha Vs. State of Andhra Pradesh, Mohit Yadam Vs. State of Andhra Pradesh, Mohd. Akber Yaseen Vs. Rizwana Sultana*** and ***Mangesh Sawant Vs. Minal Vijay Bhosale*** the various reliefs sought under the provisions of the Act are civil in nature. There is no element of criminality in the reliefs sought by the second respondent. The allegations made in the complaint, *prima facie*, reveal the role played by the petitioners. The maintainability of the petition itself is very much doubtful in view of the nature of the reliefs sought for by the second respondent.

5. Whether the second respondent is entitled to claim the reliefs against the petitioners or not is purely a question of fact, which requires a full fledged trial and

the same cannot be gone into while exercising inherent jurisdiction under Section 482 Cr.P.C. If this Court expresses any opinion, touching the merits of the case, the same may cause prejudice to either of the parties.

6. Viewed from factual or legal aspects, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

7. Learned counsel for the petitioners submitted that the petitioners are facing much difficulty to attend the Court on each and every date of adjournment. As rightly pointed out by the learned counsel for the petitioners, there is no dispute with regard to the identity of the petitioners. Even if the presence of the petitioners herein is dispensed with, no prejudice will be caused to the second respondent. Therefore, the presence of the petitioners herein, who are respondent Nos.2 to 5 in D.V.C.No.4 of 2013 on the file of the Judicial Magistrate of First Class, Parchur, on each and every date of adjournment is hereby dispensed with. However, the petitioners herein/respondents 2 to 5 shall appear before the trial Court as and when their presence is required.

8. With the above observations, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

T. SUNIL CHOWDARY, J

25th November, 2015

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