HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4101 of 2015

ORDER :

This Criminal Petition is filed by the Petitioner/respondent No.5 in DVC under Section 482 Cr.P.C seeking to quash the proceedings in D.V.C. No.3 of 2014 on the file of II Additional Judicial Magistrate of First Class, Eluru.

2. Heard the learned counsel for petitioner and perused the material on record. The contention of the learned counsel for the petitioner already covered by the expression of this Court in ***Gaddameedi Nagamani V. The State of Telangana rep. by Public Prosecutor*** (Crl.P (SR) Nos.22371 of 2015 and batch), the office objection holds good. Undisputedly, the scope of Section 29 of the Domestic Violence Act is not referred therein even much less came for consideration but for the general observation saying the refusal to entertain the quash saying not connected with offence in the domestic violence is not sustainable (It is because the procedure is almost akin to Section 125 of Cr.PC and quasi criminal in nature). It is needless to say the remedy is to file an appeal against the order in D.V.C as per Section 29 of the Protection of Women from Domestic Violence Act as an efficacious remedy is any order includes taken on file by the learned Magistrate by application of mind. In fact, the Apex Court in **State of Haryana v. Bhajan Lal**[1] laid down the seven guidelines which include showing of no other alternative or efficacious remedy as per clause (f) of (a to g) to maintain the quash proceedings. Here, once there is an efficacious appeal remedy provided undisputedly even to impugn the taking of cognizance (taken on file) of the matter for the relief sought, such order to impugn before Court of Sessions, this Court is not inclined to stretch

its hand to admit for quash the proceedings.

3) In the result, the Criminal Petition is disposed of giving liberty to the petitioner to move the trial Court to dispense with his personal attendance under Section 205 Cr.P.C through special vakalath holder if not, under Section 126(2) Cr.P.C of his presence to record the evidence in the presence of his advocate and in such an event, the learned Magistrate after hearing shall consider and allow the same with necessary conditions. Needless to say as the petitioner instead of filing an appeal before the Sessions Judge approached this Court, the appellate Court can entertain the appeal without insisting the limitation period by invoking Section 14 of the Limitation Act. Warrant is cancelled subject to appearance through General Power of Attorney holder to participate in the proceedings.

4) Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

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Dr. B. SIVA SANKARA RAO, J

21.09.2015
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[1] AIR 1992 SC 604