

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.6977 of 2014

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioners/A.1 and A.2 seeks to quash the proceedings in D.V.C.No.1/2013 on the file of Judicial Magistrate of First Class, Pitapuram, East Godavari District.

02. The complaint allegations are thus :

The respondent herein filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the present petitioners alleging that the first petitioner is her father and second petitioner is her step mother and her mother and first petitioner obtained divorce by mutual consent and thereafter the respondent used to maintain herself depending on the mercy of the petitioners and they used to harass her mentally and physically and they used to abuse her in filthy language and beat her indiscriminately. Her further case is that the petitioners neglected her and did not provide food and shelter and medical expenses and left to her fate and they are also interfering with her marriage alliances. She further alleged that the first petitioner is well settled in society owning vast properties like a house near Matam Center, Samalkota, a house at Boyinapalli, Secunderabad and also at Ballari and a site at Secretariat Colony, Manikonda, Rangareddy District, a site at Ome Sai Nagar, Toomugunta, Rangareddy District and another site at Vakalapaudi, Kakinada besides bank deposits. She alleged that the first petitioner used to send money to her when she was residing away from him and he sent money only about six times through Money Order and at the instigation of second petitioner, the first petitioner stopped sending money and neglected her. Her natural mother Kamala has no income to maintain herself and there was no scope for her to depend on her mother. The first petitioner joined his son born through the second petitioner in M.B.B.S Course and paid about Rs.42,00,000/- as donation. Thus, the respondent prayed to grant Prohibitory Orders against petitioners not to sell the immovable properties until her life is settled and sought for further direction to the petitioners to maintain her by providing food and shelter and to meet the medical expenses and marriage expenses. She further prayed for a direction to the petitioners to pay Rs.70,00,000/- as compensation to her for mental agony and marriage expenses

etc.,

03. Denying the petition allegations, the petitioners sought for quashment of the proceedings arguing that due to disputes between the natural mother of the respondent and petitioner No.1, they obtained divorce by mutual consent on 30.06.1993 and ever since they have been living separately. From the date of dissolution of marriage, the respondent and her mother got separated from him and leading their respective lives separately and there was no connectivity between them. To the utter shock of the first petitioner, the respondent lodged the domestic violence petition after 20 years with all false averments as if the first petitioner neglected her in providing food and shelter etc., He strongly contended that ever since the divorce, no domestic relationship existed between the petitioner No.1 and respondent. Without such relation, the question of causing domestic violence does not arise and hence the petition itself is not maintainable. The reliefs sought for are also untenable and continuation of proceedings will amount to abuse of process of law.

(a). Per contra, the counsel for respondent/petitioner argued that the first petitioner is the natural father of the respondent and merely because he obtained divorce from her mother, the blood relationship between first petitioner and respondent will not be ceased and therefore, under law he is liable to look after the needs of the respondent. Since the first petitioner neglected his daughter at the instance of second petitioner and both of them caused harassment, the respondent is constrained to file the petition and it is a far-fetching contention that there is no domestic relationship between the parties. He thus prayed to dismiss the application.

04. In the light of the above rival contentions, the point for determination is:

“whether there are any merits in this petition to allow?”

05. The main plank of argument on which the petitioners seek for quashment of the proceedings is that after the divorce between first petitioner and the natural mother of respondent, the respondent and her mother lived separately and no domestic relationship existed between the first petitioner and the respondent and hence the

question of domestic violence does not arise. In the light of the above arguments, when the record is perused, the copy of the divorce proceedings filed by the petitioners would show that the first petitioner and natural mother of the respondent namely Amarapally Kamala obtained divorce by mutual consent on 30.06.1993 in O.P.No.223 of 1992 on the file of Principal Subordinate Judge, Kakinada. The said Order only reads that the marriage between both the parties were dissolved and there is no order relating to the custody of the respondent. Neither party filed any direction issued by the Court regarding the custody of the respondent who is their daughter. Be that it may, merely because the first petitioner and his wife obtained divorce, the blood relationship between the first petitioner and respondent does not cease to exist and so also his responsibility towards respondent does not extinguish. It is in this context, the definition of domestic relationship as laid down under Section 2(f) of the Protection of the Woman from Domestic Violence Act, 2005, has to be perused. Section 2 (f) reads thus:

“ domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a share household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family“.

The above definition would show that the first petitioner and respondent have lived at one point of time under a roof as consanguines and therefore, they had domestic relationship between them as father and daughter. Therefore, the argument of learned counsel for petitioners that the first petitioner had no domestic relationship with the respondent cannot be accepted. Then with regard to other allegations, whether the petitioners neglected to provide amenities to the respondent and failed to provide the marriage expenses etc., or not is a question of fact which has to be decided only after due enquiry. Therefore, the petitioners have to face the trial and establish their defence. As the matter stands, there are no merits to allow the petition.

05. Accordingly, the Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 03.06.2015

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