

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.11610 of 2015

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners, who are respondent Nos.4 and 5 in D.V.C.No.6 of 2015 on the file of the Judicial Magistrate of First Class, at Luxettipet, Adilabad District.

2. A perusal of the record reveals that the petitioners are respondents 4 and 5 and the first respondent is the complainant. The first respondent filed a petition under Section 12 of the Protection of Women from Domestic Violence Act (for short 'the Act') against the petitioners and three others claiming various reliefs under the Act. The learned Magistrate after satisfying himself with the material placed before him has taken the case on file, numbered the same as DVC 6 of 2015 and issued summons to the respondents.

3. As per the principle enunciated in Valisetti Chandra Rekha v. State of Andhra Pradesh^[1], Mohit Yadam v. State of Andhra Pradesh^[2] and Mohd. Akber Yaseen v. Rizwana Sultana^[3], 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 first respondent are purely civil in nature without any element of criminality. Whether the first respondent is entitled to claim reliefs against the petitioners or not has to be decided during the course of trial only. A perusal of the record reveals the role played by the petitioners. 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.4 and 5 in DVC No.6 of 2015.

6. Learned counsel for the petitioners has drawn my attention to the orders dated 24.06.2015 passed by the learned Magistrate, which reads as follows:

“Prima facie a case of Domestic Violence has been committed against the petitioners. However registered as DVC No.6 of 2015 by taking cognizance of the offence and issue notice to all the respondents on payment of process. Call on 14.07.2015.”

It appears, by oversight the learned Magistrate made such observations.

7. Learned counsel for the petitioners submitted that the petitioners are facing much difficulty to attend the trial Court on each and every date of adjournment. Hence, their presence may be dispensed with.

8. There is no dispute with regard to the identity of petitioners/respondents No.4 and 5. Even if the presence of the petitioners is dispensed with, no prejudice would be caused to the first respondent.

9. Hence, the presence of petitioners/respondents 4 and 5 in D.V.C.No.6 of 2015 on the file of the Judicial Magistrate of First

Class, Luxettipet, Adilabad District, is hereby dispensed with on each and every date of adjournment. However, they shall appear before the trial Court as and when their presence is so required.

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

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

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T. SUNIL CHOWDARY, J

Date:10.12.2015

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[\[1\]](#) 2010 (2) ALD (CrI.) 689 (AP)

[\[2\]](#) 2010 (1) ALD (CrI.) 1 (AP)

[\[3\]](#) 2010 (2) ALD (CrI.) 680 (AP)