

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.2646 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners who are respondent Nos.2 to 6 in D.V.C.No.3 of 2015 on the file of II Additional Judicial Magistrate of First Class, Kothagudem, Khammam District.

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

3. A perusal of the record reveals that the petitioners are respondents 2 to 6 and the 2nd respondent is the petitioner in D.V.C.No.3 of 2015. The marriage of the 2nd respondent was performed with the 1st respondent in D.V.C.No.3 of 2015 on 11.03.2012 at Paloncha as per Hindu rites and caste customs. The 2nd respondent filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act') against the petitioners herein and another claiming various reliefs under Sections 18 to 22 of the Act. On receipt of the complaint, the learned Magistrate after satisfying himself with the material placed before him, has taken the case on file and numbered it as D.V.C.No.3 of 2015 and issued summons to the petitioners herein.

4. As per the principle enunciated in **Valisetti Chandra Rekha v. State of Andhra Pradesh**^[1], **Mohit Yadav v. State of Andhra Pradesh**^[2], **Mohd. Akber Yaseen v. Rizwana Sultana**^[3] and **Mangesh Sawant v Minal Vijay Bhosale**^[4], the reliefs sought under Sections 18 to 22 of DVC Act are civil in nature and there is no element of criminality therein. Therefore, the maintainability of present petition is very much doubtful. A perusal of the complaint *prima facie*

reveals the role played by the petitioners herein.

5. The reliefs sought in DVC.No.3 of 2015 are purely civil in nature without any element of criminality. Whether the 2nd respondent is entitled to claim reliefs against the petitioners herein and another has to be decided during the course of trial only.

6. 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.2 to 6 in DVC.No.3 of 2015.

7. Learned counsel for the petitioners submitted that the petitioners are facing much difficulty to appear before the trial Court on each and every date of adjournment. There is no dispute with regard to the identity of the petitioners. Even if the presence of the petitioners is dispensed with, no prejudice would be caused to the 2nd respondent. Hence, this Court is inclined to dispense with the presence of the petitioners/respondent Nos.2 to 6 before the trial court.

8. With the above observations, the Criminal Petition is dismissed. The presence of the petitioners, who are respondent Nos.2 to 6 in DVC No.3 of 2015 on the file of the court of II Additional Judicial Magistrate of First Class, Kothagudem, Khammam District on each and every date of adjournment is dispensed with. However, they shall appear before the trial Court as and when their presence is so required. Miscellaneous petitions if any pending in this criminal petition shall stand closed.

T.SUNIL CHOWDARY, J

March 02, 2016.

Rds

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

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

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

[\[4\]](#) 2012 Cri.L.J. 1413 (Bombay)