

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.12188 of 2016

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners, who are respondent Nos.3 to 5 in D.V.C.No.42 of 2016 on the file of VI Additional Judicial Magistrate of First Class, Rajahmundry, seeking quashing of all further proceedings in the above D.V.C.

2. The 2nd respondent herein filed a report under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short "the Act") against the petitioners and another claiming various reliefs under the Act.

3. Although the present Criminal Petition is filed for quashing of the entire proceedings, the learned counsel for the petitioners restricts his prayer seeking dispensation of the presence of the petitioners before the trial Court.

4. The learned Additional Public Prosecutor submits that in the absence of any dispute with regard to identity of the petitioners and as the proceedings initiated under D.V.C. are civil in nature with no penal consequence, the presence of the petitioners can be dispensed with.

5. In **Valisetti Chandra Rekha v. State of Andhra Pradesh**^[1], this Court while dealing with a situation where issuance of NBWs while taking DVC case on file held that issuance of summons and non-bailable warrants for their presence is not at all warranted, at the stage of passing of the protection orders or residence orders by the concerned Magistrate. This Court further held that mere impleadment of petitioners in Domestic Violence Case does not give rise to a criminal offence so as to quash proceedings at the initial stage.

6. In **Mohit Yadav v. State of Andhra Pradesh**^[2], this Court after referring to the various judgments of the Apex Court and also to the objects and reasons of the Act, held that none of the provisions of the Act has direct penal consequence. It is only a remedial statute which receive a liberal construction. The breach of protection order, or an interim protection order, by the respondent in DVC shall be an offence under Section 31 of the Act. Since the Act has no penal consequences, except violation of orders passed under Sections 17 to 22 of the Act, the court held that it is a “beneficial legislation to stop the pandemic that violence suffered by women, with an object to prevent the gender based violence.”

7. In **Mohd. Akber Yaseen v. Rizwana Sultana**^[3], a learned single Judge of this Court while considering the issue whether revision lies against an order passed by the Magistrate under Section 29 of the Act, held that there is no element of criminality in cases filed for reliefs under Sections 18 to 22 of the Domestic Violence Act, much less the domestic violence case is a criminal case. Unless the case is filed alleging offences under Sections 31 and 33 of the Act, the entire proceedings in domestic violence case are purely civil in nature, but entertained by criminal Courts applying procedure enunciated under the Code of Criminal Procedure, 1973.

8. Taking into consideration the judgments referred to above, I am of the view that the presence of the petitioners/respondents 3 to 5 before the trial Court may not be necessary on every date of adjournment. As there is no criminality involved and since the proceedings initiated for the reliefs under Sections 18 to 23 of the Domestic Violence Act are purely civil in nature, the request of the petitioners can be accepted. Accordingly, the presence of the petitioners in D.V.C.No.42 of 2016 on the file of V I A d d i t i o n a l J u d i c R a j a h, is hereby dispensed with, except on the dates when their presence is specifically required by the Court.

9. With the above direction, the Criminal Petition is disposed of at the admission stage.

As a sequel thereto, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

AUGUST 22, 2016
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HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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- [\[1\]](#) 2010(2) ALD (Cr.)689 (AP)
- [\[2\]](#) 2010(1) ALD (Cr.)1
- [\[3\]](#) 2010(2) ALD (Cr.) 680 (AP)