

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.7338 of 2012

ORDER:

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This Criminal Petition under Section 482 of Cr.P.C. is filed to quash the proceedings in D.V.C.No.5 of 2012 pending on the file of Judicial Magistrate of First Class at Yellandu, Khammam District.

The petitioner herein is the second respondent before the trial Court in the D.V.C. No.5 of 2012 instituted by the first respondent herein under the provisions of Protection of Women from Domestic Violation Act, 2005 (for short 'the Act'). The main contention of the learned counsel for the petitioner herein is that the petitioner is nothing to do with the family affairs of the first respondent herein. It is further submitted that even in the complaint, there is no specific allegation against the petitioner herein.

Heard and perused the material available on record.

As rightly contended by the learned counsel for the petitioner there is no specific averment or allegation as against the petitioner in the complaint/statement of the first respondent herein. The relevant portion of the complaint against the petitioner herein reads thus:

"The respondent No.2 is the Ex-wife of the first respondent duly divorced by the court of law by a decree of divorce."

Admittedly, the petitioner herein is a divorced wife and not living with the husband of the first respondent herein and therefore, she cannot be proceeded under the provisions of the Act. Hence, the impugned proceedings as against the petitioner herein are liable to be quashed.

In the result, the Criminal Petition is allowed and the proceedings in D.V.C.No.5 of 2012 pending on the file of Judicial

Magistrate of First Class at Yellandu, Khammam District are hereby
quashed as against the petitioner herein.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

04th August, 2016
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