

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.17021 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings against the petitioners in D.V.C. No.19 of 2016 pending on the file of II Additional Judicial Magistrate of I Class, Machilipatnam.

The person aggrieved, who is the second respondent herein, filed a petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act') making certain allegations against the petitioners herein and claimed several reliefs.

Sri Mohd Vasi Ahmed, learned counsel for the petitioners, has drawn the attention of this Court to paragraph 11 of the petition, wherein it is alleged that the first petitioner never met her physically, he never led marital life, there is humiliation and further threatened to not to disclose his incapacity to the society, and the petitioners have given repeated threats, harassed the second respondent, further committed verbal and emotional damage and they further demanded to bring an amount of Rs.5,00,000/-. The first petitioner is the husband, petitioners 2 and 3 are the in-laws and petitioner No.4 is the married daughter of petitioners 2 and 3. Thus, there exists domestic relationship between the person aggrieved and the petitioners as defined under Section 2(f) of the Act.

In **GIDUTHURI KESARI KUMAR AND OTHERS V. STATE OF TELANGANA REP. BY PUBLIC PROSECUTOR AND ANOTHER**¹ this Court laid down certain guidelines and held that the proceedings under the Act are purely civil in nature and the Magistrate cannot insist the appearance of the parties on every date of adjournment, and that the court can pass *ex parte* order even in the absence of parties and the proceedings in D.V.C. cannot be equated with the criminal trial. This Court can exercise inherent jurisdiction under Section 482 of Cr.P.C. only in exceptional circumstances, when there was no subsisting domestic relationship as defined under Section 2(f) of the Act or where the proceedings are initiated under Section 31 of the Act and finally where the petitioners i.e. respondents in D.V.C. were acquitted in any earlier case on identical allegations. But none of the grounds are raised in the present petition to exercise inherent jurisdiction under Section 482 of Cr.P.C. to quash the proceedings.

Therefore, in view of the law declared by this court, the proceedings in D.V.C. No.19 of 2016 cannot be quashed. However, the II Additional Judicial Magistrate of I Class, Machilipatnam, shall not insist the appearance of the respondents in D.V.C. No.19 of 2016 on every date of adjournment, in view of law declared by this Court in **GIDUTHURI KESARI KUMAR AND OTHERS V. STATE OF TELANGANA REP. BY PUBLIC PROSECUTOR AND ANOTHER** referred to supra.

¹ 2015(2) ALD (Cr.) 470

- 3 -

With the above direction, the criminal petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 23.12.2016
BV

