

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.275 of 2016

ORDER:

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This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners, who are respondents 2 and 3 in D.V.C.No.23 of 2015 on the file of the III Additional Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam.

2. A perusal of the record reveals that the second and third respondents filed a petition under Section 12 of the Protection of Women from Domestic Violence Act (for short 'the Act') against the petitioners and another claiming various reliefs under the Act. The learned Magistrate after satisfying himself with the material placed before him has taken the case on file and numbered it as DVC 23 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 Yadav 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 respondents 2 and 3 are purely civil in nature without any element of criminality. Whether respondents 2 and 3 are 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.2 and 3 in DVC No.23 of 2015.

6. 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.

7. The petitioners herein are brother-in-laws of second respondent and own brothers of respondent No.1 in the main DVC. There is no dispute with regard to the identity of petitioners/respondents No.2 and 3. Even if the presence of the petitioners/respondents 2 and 3 in DVC is dispensed with, no prejudice would be caused to the second and third respondents.

8. Hence, the presence of petitioners/respondents 2 and 3 in D.V.C.No.23 of 2015 on the file of the Court of III Additional Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam, is hereby dispensed with on each and every date of adjournment. However, the petitioners shall appear before the trial Court as and when their presence is so required.

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

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

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T. SUNIL CHOWDARY, J

Date:18.01.2016

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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)