

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15188 OF 2016

ORDER:

This Criminal Petition is filed to quash the proceedings in D.V.C.No.42 of 2016 pending on the file of Judicial First Class Magistrate (Special Mobile) Court, Nalgonda filed by 2nd respondent against the petitioners who are related to her husband alleging that they subjected her to domestic violence as defined under Section 3 of Dowry Prohibition Act and that there existed domestic relationship between the petitioners and second respondent as defined under Section 2 (f) of the Act.

Since there existed a domestic relationship between the petitioners and second respondent as defined under Section 2 (f) of the Act, the jurisdiction under Section 482 of Cr.P.C. cannot be exercised to quash the proceedings under D.V.C. Act, except, where the complaint is filed by aggrieved person against person with whom she had no domestic relationship or where proceedings are initiated under Section 28 (2) or Section 31 of D.V.C. Act.

But here, no such proceedings are initiated and there is a domestic relationship between the petitioners and second respondent as defined under 2(f) of the Act. In a similar case reported in *GIDUTHURI KESARI KUMAR AND OTHERS v. STATE OF TELANGANA AND ANOTHER* (¹) this court held at paragraph 14 of judgment of this court which reads as follows:

¹ 2015 (2) ALD (Cr.) 470

“ To sum up the findings:

i) Since the remedies under D.V Act are civil remedies, the Magistrate in view of his powers under Section 28(2) of D.V Act shall issue notice to the parties for their first appearance and shall not insist for the attendance of the parties for every hearing and in case of non-appearance of the parties despite receiving notices, can conduct enquiry and pass ex parte order with the material available. It is only in the exceptional cases where the Magistrate feels that the circumstance require that he can insist the presence of the parties even by adopting coercive measures.

ii) In view of the remedies which are in civil nature and enquiry is not a trial of criminal case, the quash petitions under Section 482 Cr.P.C on the plea that the petitioners are unnecessarily arrayed as parties are not maintainable. It is only in exceptional cases like without there existing any domestic relationship as laid under Section 2(f) of the D.V. Act between the parties, the petitioner filed D.V. case against them or a competent Court has already acquitted them of the allegations which are identical to the ones leveled in the Domestic Violence Case, the respondents can seek for quashment of the proceedings since continuation of the proceedings in such instances certainly amounts to abuse of process of Court.”

In *ASHISH DIXIT AND OTHERS v. STATE OF UTTAR PRADESH AND ANOTHER* ⁽²⁾, the Supreme Court observed that High Court would have directed the Magistrate not to proceed against the petitioner therein who is a tenant in occupation of the premises. Therefore, no law was declared. However purport of the judgment is that the person who is impleaded as a party who is not having any domestic relationship as defined under Section 2 (f) of the Act, the principle laid down by the apex court is identical with regard to existence of domestic relationship between the petitioners and second respondent. In view of principles, this court cannot exercise

² (2013) 4 SCC 176

jurisdiction to quash proceedings in D.V.C.No.42 of 2016 pending on the file of Judicial I Class Magistrate (Special Mobile) Court.

Therefore, I find no ground to exercise jurisdiction under Section 482 of Cr.P.C. to quash the proceedings in D.V.C.No.42 of 2016 filed by the 2nd respondent pending on the file of Judicial First Class Magistrate (Special Mobile) Court, Nalgonda.

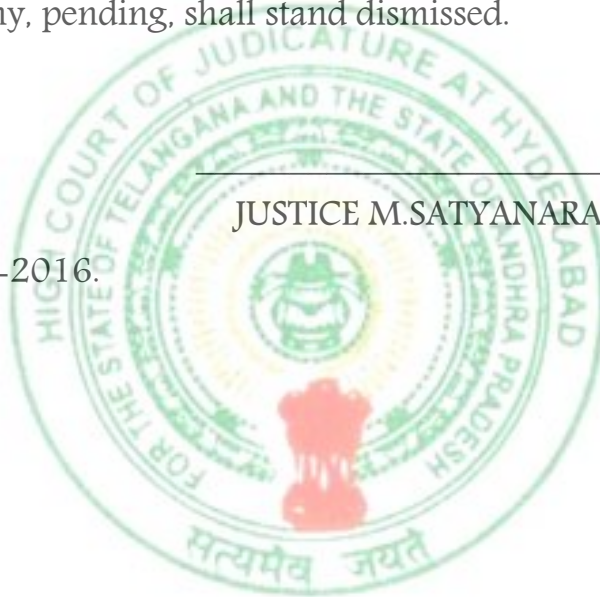
Accordingly, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 26-10-2016.

Dvs.



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Dated 26-10-2016.

Dvs