

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.1423 OF 2016

ORDER:

1 This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/respondent Nos.2 to 5 in DVC No.15 of 2007 on the file of the Court of the III Metropolitan Magistrate, Visakhapatnam.

2 Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor representing the State.

3 A perusal of the record reveals that the respondent Nos.2 and 3 filed a petition under section 12 of the Protection of Women from Domestic Violence Act (for short 'DVC Act') on the file of the Court of the III Metropolitan Magistrate, Visakhapatnam against the petitioners and another seeking various reliefs. After satisfying himself with the material placed before him, the learned Magistrate has taken the case on file and numbered it as DVC No.15 of 2007. Petitioners herein are respondent Nos.2 to 5 and the respondent Nos.2 and 3 are the petitioners in DVC No.15 of 2007. There is no dispute between the parties with regard to their *inter se* relationship.

4 As per the principle enunciated in **Valisetti Chandra Rekha v. State of Andhra Pradesh**^[1], **Mohit Yadav v. State of Andhra Pradesh**^[2], **Mohd. Akber Yaseen v. Rizwana Sultana**^[3] and **Mangesh Sawant V. Minal Vijay Bhosale**^[4] the various reliefs sought under the provisions of D.V.C.Act are civil in nature. There is no element of criminality in the reliefs sought by the second respondent. The allegations made in the complaint, prima

facie, reveal the role played by the petitioners. The maintainability of the petition itself is very much doubtful in view of the nature of the reliefs sought for by the second respondent.

5 Whether the respondent Nos.2 and 3 are entitled to claim the reliefs against the petitioners or not is purely a question of fact, which requires a full fledged trial and the same cannot be gone into while exercising inherent jurisdiction under Section 482 Cr.P.C. If this Court expresses any opinion, touching the merits of the case, the same may cause prejudice to either of the parties.

6 Viewed from factual or legal aspects, I am of the considered view that this is not a fit case to quash the proceedings at this stage.

7 The learned counsel for the petitioners submitted that the petitioners are facing much difficulty in attending the Court on each and every adjournment. First petitioner is father-in-law, second petitioner is mother-in-law, petitioner Nos.3 and 4 are brothers-in-law of the second respondent. There is no dispute with regard to the identity of the petitioners. Even if the presence of the petitioners is dispensed with, no prejudice will be caused to the respondent Nos.2 and 3. Therefore, the presence of the petitioners who are respondent Nos.2 to 5 in DVC No.15 of 2007 on the file of the Court of the III Metropolitan Magistrate, Visakhapatnam on each and every adjournment is hereby dispensed with. However, the petitioners / respondents 2 to 5 shall appear before the trial Court as and when their presence is required.

8 With the above observations, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this criminal

petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 8th February, 2016

Kvsn

[\[1\]](#) 2010 (2) ALD (CrI.) 689 (AP)

[\[2\]](#) 2010 (1) ALD (CrI.) 1 (AP)

[\[3\]](#) 2010 (2) ALD (CrI.) 680 (AP)

[\[4\]](#) 2012 Cri.L.J. 1413 (Bombay)