

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5977 of 2013

ORDER :

This Criminal Petition is filed by the Petitioner/ Respondent No.4 under Section 482 Cr.P.C seeking to quash the proceedings in D.V.C. No.16 of 2012 on the file of II Additional Chief Metropolitan Magistrate at Gajuwaka, Visakhapatnam District.

2) Heard the learned counsel for petitioner and perused the material on record. The contention of the learned counsel for the petitioner already covered by the expression of this Court in ***Gaddameedi Nagamani V. The State of Telangana rep. by Public Prosecutor*** (Crl.P (SR) Nos.22371 of 2015 and batch), the office objection holds good. Undisputedly, the scope of Section 29 of the Domestic Violence Act is not referred therein even much less came for consideration but for the general observation saying the refusal to entertain the quash saying not connected with offence in the domestic violence is not sustainable (It is because the procedure is almost akin to Section 125 of Cr.PC and quasi criminal in nature). It is needless to say the remedy is to file an appeal against the order in D.V.C as per Section 29 of the Protection of Women from Domestic Violence Act as an efficacious remedy is any order includes taken on file by the learned Magistrate by application of mind. In fact, the Apex Court in **State of Haryana v. Bhajan Lal**^[1] laid down the seven guidelines which include showing of no other alternative or efficacious remedy as per clause (f) of (a to g) to maintain the quash proceedings. Here, once there is an efficacious appeal remedy provided undisputedly even to impugn the taking of cognizance (taken on file) of the matter for the relief sought, such order to impugn before Court of Sessions, this Court is not inclined to stretch

its hand to admit for quash the proceedings, if any pending still.

3) In the result, the Criminal Petition is disposed of giving liberty to the petitioner to move the trial Court to dispense with her personal presence but for one by invoking Rule 37 of Criminal Rules of Practice or Section 205 Cr.P.C or Section 126(2) Cr.P.C if not dispensed with under Section 126(2) Cr.P.C of her presence to record the evidence in the presence of her advocate and in such an event, the learned Magistrate after hearing shall consider and allow the same with necessary conditions. Needless to say as the petitioner instead of filing an appeal before the Sessions Judge approached this Court, the appellate Court can entertain the appeal without insisting the limitation period by invoking Section 14 of the Limitation Act.

4) Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

06.01.2016
knl

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

-
-
-
-
-
-
-
-
-

CRIMINAL PETITION No.5977 of 2013

Date:06.01.2016

knl

[\[1\]](#) AIR 1992 SC 604