

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.16380 of 2016

ORDER

This petition is filed under Section 483 Cr.P.C., seeking a direction to the learned III Additional Judicial First Class Magistrate, Ongole, not to insist the petitioners' appearance before the Court in D.V.C.No.10 of 2014 pending on his file.

2. The basis for claiming the relief is that, in Crl.P.Nos.13548 and 6346 of 2014 filed by petitioners to quash the proceedings in D.V.C.No.10 of 2014 on the file of III Additional Judicial First Class Magistrate, Ongole, this Court, by orders dated 19.11.2014 and 22.09.2014 respectively, dispensed with their appearance except on the dates whenever their presence is required.

3. The contention of petitioners is that despite the order of this Court in the aforesaid criminal petitions, the learned Magistrate is insisting their appearance before the Court regularly and therefore, they approached this Court seeking a direction to the trial Court not to insist their appearance on each and every date of adjournment, except on the dates whenever their presence is required.

4. Under Section 483 Cr.P.C., the High Court shall exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates.

5. Though power is limited, it appears from the record that this Court passed orders, referred above, dispensing with the presence of petitioners on the dates of adjournment except on the date whenever their presence is required for disposal of the case, but, the

trial Court allegedly insisting the appearance of petitioners despite the orders of this Court.

6. In **Giduthuri Kesari Kumar v. State of Telangana**¹, this Court while deciding the application under Section 482 Cr.P.C. held as under:

“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 circumstances require that he can insist the presence of the parties even by adopting coercive measures”.

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.

7. In view of the above judgment, the appearance of respondents in D.V.C. is not necessary. In the present case, insistence of appearance of petitioners by the learned Magistrate despite the orders passed by this Court may lead to serious consequence as it amounts to deliberate violation of the direction. But, however, the learned Magistrate, taking into consideration the principle laid down in **Giduthuri Kesari Kumar**, is directed not to insist the attendance of petitioners on every date of adjournment, except on the dates whenever their presence is required for disposal of D.V.C.

8. With the above direction, the Criminal Petition is disposed of, directing the learned Magistrate to follow the directions of this Court

¹ 2015(2) ALD (CrI.) 470

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

M. SATYANARAYANA MURTHY, J

30th November, 2016

sj

Note:
Issue CC by Monday.

