

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.1772 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/respondent Nos.1 to 6 in D.V.C. No.69 of 2015 on the file of the court of II Additional Judicial Magistrate of First Class, Eluru, West Godavari District.

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

3. A perusal of the record reveals that second respondent herein filed the complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, the Act) claiming the reliefs under Sections 18 to 22 of the Act against the petitioners and others. On receipt of the complaint, the learned Magistrate has taken the case on file and numbered it as D.V.C. No.69 of 2015 and issued summons to the petitioners.

4. This Court can quash the proceedings under Section 482 Cr.P.C. in the following circumstances: (1) if the allegations made in the complaint do not constitute any cause of action, or (2) even if the allegations made in the complaint ex facie are taken to be true and correct, there is no possibility to grant reliefs against the petitioners, or (3) the continuation of the proceedings in DVC would amount to abuse of the process of the Court.

5. A perusal of the record reveals that the marriage of second respondent was solemnized with the first petitioner on 24.2.2012 at Eluru as per Hindu rites and caste customs.

6. As per the principle enunciated in **Valisetti Chandra Rekha v. State of Andhra Pradesh**^[1], **Mohit Yadam v. State of Andhra Pradesh**^[2], **Mohd. Akber Yaseen v. Rizwana Sultana**^[3] and

Mangesh Sawant v Minal Vijay Bhosale^[4], the reliefs sought under Sections 18 to 23 of DV Act are civil in nature and there is no element of criminality therein. Therefore, the maintainability of present petition is very much doubtful. A perusal of the complaint *prima facie* reveals the role played by the petitioners herein.

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the view that it is not a fit case to quash the proceedings against the petitioners/respondent Nos.1 to 6 in DVC No.69 of 2015.

8. Learned counsel for the petitioners submitted to dispense with the presence of the petitioner Nos.2 to 6 before the trial court on each and every date of adjournment. The petitioner Nos.2 to 6 are the family members of petitioner No.1. There is no dispute with regard to the identity of the petitioner. Even if the presence of the petitioner Nos.2 to 6 is dispensed with, no prejudice will be caused to the second respondent. Hence, the presence of the petitioners/respondent Nos.2 to 6 in DVC No.69 of 2015 before the trial court on each and every date of adjournment is dispensed with. However, they shall appear before the trial court as and when their presence is so required.

9. 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.

February 12, 2016.

YS

^[1] 2010 (2) ALD (CrL.) 689 (AP)

^[2] 2010 (1) ALD (CrL.) 1 (AP)

^[3] 2010 (2) ALD (CrL.) 680 (AP)

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