

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.16609 AND 16619 OF 2016

COMMON ORDER:

These two petitions are filed, under Section 482 Cr.P.C., to quash the orders, dated 01.12.2016, passed in CrI.M.P.Nos.1780 and 1781 of 2016 in D.V.C.No.15 of 2016 on the file of I Additional Chief Metropolitan Magistrate, Vijayawada.

2. CrI.M.P.No.1780 of 2016 is filed, under Section 311 Cr.P.C., to reopen the evidence of petitioner in the main D.V.C., whereas CrI.P.MP.No.1781 of 2016 is filed, under Section 91 Cr.P.C., to summon respondent No.2 to produce certain documents. The trial Court, by impugned orders, dated 01.12.2016, dismissed both the petitions.

3. No doubt, the provisions of Cr.P.C. are applicable to the proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act'), but when a petition is filed under the said enactment and a party is aggrieved by the order passed in such petition, i.e., the aggrieved party has to file an appeal under Section 29 of the Act. Therefore, if the petitioner is aggrieved by the impugned orders, he ought to have filed appeals before the Court concerned, instead of approaching this Court under Section 482 Cr.P.C. The Honourable Apex Court in **State of Haryana and**

others v. Ch. Bhajan lal and others¹, laid down certain guidelines to exercise jurisdiction under Section 482 Cr.P.C. and as per guideline No.6, where a remedy is provided under a specific enactment, the parties have to approach the appropriate forum provided under such enactment, but they cannot straightaway approach this Court invoking the jurisdiction under Section 482 Cr.P.C. If guideline No.6 is applied to the present facts of the case, the remedy open to the petitioner is only to approach the appellate Court by way of appeal under Section 29 of the Act, but not by way of petition under Section 482 Cr.P.C. Therefore, in view of the above guideline, I am not inclined to exercise the jurisdiction under Section 482 Cr.P.C. Consequently, the petitions are liable to be dismissed. However, the petitioner is at liberty to avail the remedy of appeal under Section 29 of the Act before the appellate Court.

4. Accordingly, the Criminal Petitions are dismissed granting liberty to the petitioner to file appeals under Section 29 of the Act. Miscellaneous Petitions, if any, pending in these Criminal Petitions, shall stand closed.

M. SATYANARAYANA MURTHY, J

December 07, 2016.
MD

¹ AIR 1992 SC 604