

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.16341 of 2016

ORDER

This petition under Section 482 Cr.P.C. is filed to quash the proceedings in DVC No.2 of 2015 on the file of Additional Judicial First Class Magistrate at Parkal, Warangal District, against the petitioners/R1 to R4, on the ground that there is lot of variation regarding demand of dowry in the complaint in DVC and the complaint lodged with Parkal Police Station dated 10.12.2014, by second respondent and the other ground is that petitioner filed M.C.No.373 of 2015 on the file of the Judge, Family Court, City Civil Court, Hyderabad, claiming maintenance of Rs.40,000/- per month without disclosing the interim maintenance awarded by the Additional Judicial Magistrate of First Class, Parkal, in the present DVC.

2. The petitioners admitted the domestic relationship between them and the second respondent. Petitioner No.1 is husband, petitioners 2 and 3 are in-laws and petitioner No.4 is sister-in-law of second respondent. Thus, there is no dispute regarding the domestic relationship as defined under Section 2(f) of Protection of Women from Domestic Violence Act, 2005 (for short 'the Act'). The ground raised by petitioners regarding suppression of factum of award of interim maintenance has no bearing on the present petition to quash the proceedings because the alleged suppression was in the Maintenance Case, but not in this case. Therefore, on that ground, the proceedings cannot be quashed.

3. The other ground raised by petitioners is that there was variation regarding the demand of dowry in the present complaint and in the complaint lodged before Parkal Police Station by second respondent. No doubt, in the complaint lodged before the police, the second respondent alleged that her parents presented Rs.1 lakh cash, 16 tulas of gold and one open plot at Hanamkonda worth Rs.15 lakhs to petitioners towards dowry at the time of marriage, but there was variation in the present petition, wherein she alleged that her parents presented 10 lakhs as dowry besides other gold ornaments etc. But, such variation is not a ground to quash the proceedings and it has no relevance at all for the reason that the reliefs claimed by second respondent in DVC are for refund of Sthreedhana property, grant of maintenance and provision of shelter in the shared house and other reliefs. The alleged variation is insignificant to decide the real controversy between the parties and it would neither amount to abuse of process of law nor filing of any petition with mala fides.

4. Coming to the point of application of Section 482 Cr.P.C. to the proceedings under DVC Act, the power under Section 482 Cr.P.C. can be exercised only in two circumstances in DVC cases, where there is no subsisting domestic relationship as defined under Section 2(f) of the Act or where the Court invoked the power under Section 31(1) of the Act or where the respondents are acquitted by competent Court on identical allegations. Similar question came up before this Court in **Giduthuri Kesari Kumar V. State of Telangana**¹, wherein this Court held as under:

¹ 2015(2) ALD (CrI.) 470

““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. It is only in exceptional cases like without there existing any domestic relationship as laid under Section 2(f) of the D.V.Act between the parties, the petitioner filed D.V.case against them or a competent Court has already acquitted them of the allegations which are identical to the ones levelled in the Domestic Violence case, the respondents can seek for quashment of the proceedings since continuation of the proceedings in such instances certainly amounts to abuse of process of Court”.

In **Ashish Dixit V. State of Uttar Pradesh**², the Supreme Court entertained the application under Section 482 Cr.P.C. and quashed the proceedings when a tenant in occupation of the building was arrayed as respondent in DVC.

5. Therefore, it is evident from the principles laid down by both the Courts and the Apex Court that the power under Section 482 Cr.P.C. can be exercised only where there exists no domestic relationship as defined under Section 2(f) of the Act or where those persons were arrayed as respondents in DVC or where a similar allegation is made in the earlier proceedings and the Court can enquire into and quash such proceedings. But, in the present case, the grounds urged before this Court are that there was variation in

² (2013) 4 SCC 176

allegations made in the complaint before police and in DVC regarding quantum of dowry and suppression of factum of interim maintenance, which was granted in DVC, in M.C.No.373 of 2015 on the file of the Judge, Family Court, City Civil Court, Hyderabad. These two grounds would not cover the circumstances laid down by this Court in **Kesari Kumar**. Therefore, I find no ground to entertain the proceedings in the present case. Consequently, the Criminal Petition is liable to be dismissed.

6. In the result, the Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.

28th November, 2016

sj

M. SATYANARAYANA MURTHY, J

