

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.17268 of 2016

ORDER :

This Criminal Petition is filed by the Petitioners/ Respondents under Section 482 Cr.P.C seeking to quash the proceedings in D.V.C. No.29 of 2015 on the file of II Additional Judicial Magistrate of the First Class, Nizamabad.

2) Heard the learned counsel for petitioners and perused the material on record. The contention of the learned counsel for the petitioners already covered by the expression of this Court in *Gaddameedi Nagamani V. The State of Telangana rep. by Public Prosecutor* (CrI.P (SR) Nos.22371 of 2015 and batch) holding that 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 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.

¹ AIR 1992 SC 604

3) In the result, the Criminal Petition is disposed of giving liberty to the petitioners to move the trial Court to dispense with their personal presence of all petitioners 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 their presence to record the evidence in the presence of their 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 petitioners 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, within ten days from the date of receipt of the order.

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

Dr. B. SIVA SANKARA RAO, J

30.12.2016
kn1