

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4498 of 2017

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C., by the petitioners-respondent Nos.1 to 3 to quash the proceedings in D.V.C.No.42 of 2016 on the file of the Court of II Additional Judicial Magistrate of First Class, Tanuku, West Godavari District.

2. Learned counsel for the petitioners submitted that the petitioners have nothing to do with the family affairs of the second respondent. He further submitted that the second respondent is not entitled to claim any relief from the petitioners. Learned Assistant Public Prosecutor submitted that the reliefs sought under DVC Act are purely civil in nature, therefore, the present petition is not maintainable under law.

3. A perusal of the record reveals that the petitioners are respondent Nos.1 to 3 and the second respondent is the complainant in D.V.C. No.42 of 2016. The second respondent filed D.V.C. under Section 12 of the Protection of Women from Domestic Violence Act, 2005 seeking various reliefs under Sections 18 to 22 of the Act. On receipt of the complaint, the learned Magistrate has taken the case on file and numbered it as D.V.C. No.42 of 2016 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 process of Court.

5. A perusal of the record reveals that the marriage of the second respondent was performed with the first petitioner on 09.05.2015 as per Hindu rites and customs. Petitioners 2 and 3 are the parents of the first petitioner. As per the allegations made in the complaint, the petitioners harassed the second respondent physically and mentally.

6. As per the principle enunciated in Valisetti Chandra Rekha v. State of Andhra Pradesh¹, Mohit Yadam v State of Andhra Pradesh², Mohd. Akber Yaseen v Rizwana Sultana³, Mangesh Sawant v Minal Vijay Bhosale⁴ and Giduthuri Kesari Kumar v State of Telangana⁵, the reliefs under Sections 18 to 22 of DV Act are civil in nature and there is no element of criminality therein. The reliefs sought by the second respondent are purely civil in nature. 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

¹ 2010 (2) ALD (CrI.) 689 (AP)

² 2010 (1) ALD (CrI.) 1 (AP)

³ 2010 (2) ALD (CrI.) 680 (AP)

⁴ 2012 Cri.L.J. 1413 (Bombay)

⁵ 2016 (1) ALT (CrI.) 358 (AP)

view that it is not a fit case to quash the proceedings against the petitioners/ respondent Nos.1 to 3 in DVC No.42 of 2016.

8. Learned counsel for the petitioners submitted that the petitioners 2 and 3 are facing much difficulty to attend the Court on each and every adjournment. Therefore, their presence before the trial Court may be dispensed with. There is no dispute with regard to the identity of the petitioners 2 and 3. Even if the presence of the petitioners 2 and 3 is dispensed with, no prejudice will be caused to the second respondent.

9. Having regard to the facts and circumstances of the case, the presence of the petitioner Nos.2 and 3, who are respondents 2 and 3 in D.V.C.No.42 of 2016, on each and every date of adjournment, on the file of the court of II Additional Judicial Magistrate of First Class, Tanuku, West Godavari District, is dispensed with. However, they shall appear before the trial court as and when their presence is specifically required.

10. With the above observations, the Criminal Petition is disposed of. Miscellaneous petitions if any pending in this criminal petition shall stand closed.

T.SUNIL CHOWDARY, J

June 16, 2017.
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