

SMT. JUSTICE T.RAJANI

CRIMINAL PETITION No.6119 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings in DVC.No.3 of 2011 on the file of the I Additional Judicial First Class Magistrate, Nizamabad.

Heard the learned counsel for the petitioner and the learned Public Prosecutor, who takes notice for the 2nd respondent. None appears for the 1st respondent, in spite of notice.

The first respondent herein filed application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 read with Rule 6(1) of the Protection of Women from Domestic Violence Rules, 2006.

The learned counsel for the petitioner submits that there was no marriage between the petitioner and the complainant and therefore, there is no relationship between them. The factual question of marriage between the parties would be adjudged by the trial Court after due trial only.

Unless there is no domestic relationship between the petitioner and the complainant, the petition is not maintainable, as per the ruling of this Court rendered in ***GIDUTHURI KESARI KUMAR AND OTHERS Vs. STATE OF TELANGANA AND ANOTHER***¹

“13) The next aspect is having regard to the fact that the reliefs provided under [Section 18](#) to [22](#) are civil reliefs and enquiry under Sec. 12 of [D.V. Act](#) is not a trial of a criminal case, whether the respondents can seek for quashment of the proceedings that they were unnecessarily roped in and thereby continuation of the proceedings amounts to abuse of process of Court etc., pleas. In my considered view, having regard to the facts

¹ 2015 (2) ALD (CrL) 470

that the scheme of the Act which provide civil reliefs and the Magistrate can lay his own procedure by not taking coercive steps in general course and the enquiry being not the trial of a criminal offence, the respondents cannot rush with 482 [Cr.P.C](#) petitions seeking quashment of the proceedings on the ground that they were unnecessarily roped in. They can establish their non-involvement in the matter and non-answerability to the reliefs claimed by participating in the enquiry. 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 leveled 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.”

Having regard to the facts and circumstances of the case and in the light of the above ruling, this petition is liable to be dismissed and accordingly, is dismissed.

Interim stay granted by this Court on 09.08.2011 in CrI.P.MP. No.6215 of 2011 shall stand vacated and the proceedings in DVC. No.3 of 2011 on the file of the I Additional Judicial First Class Magistrate, Nizamabad shall go on. As a sequel, miscellaneous applications, if any, shall stand vacated.

JUSTICE T.RAJANI

Date: 26.12.2017

LSK