

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[*Special Original Jurisdiction*]

MONDAY THE THIRTEENTH DAY OF NOVEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT
SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No. 2227 OF 2011

Between :

Sarika Sridevi ... Petitioner/Respondent No.4

V/s.

The State of Andhra Pradesh
Represented by Public Prosecutor,
High Court, Hyderabad & Ors. Respondents/complainant

Counsel for the Petitioner : Sri Taddi Nageswara Rao

Counsel for the Respondents: Public Prosecutor [AP]

The court made the following: [order follows]

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No. 2227 OF 2011

ORDER :

This Criminal Petition is filed under section 482 of Cr.P.C. , seeking to quash the proceedings in DVC.No. 10 of 2010 on the file of the Court of Judicial Magistrate of First Class, Salur, Vizianagaram district,

2. Heard the counsel for the petitioner and the Public Prosecutor who takes notice on behalf of first respondent. Respondents 2 and 3 did not appear in spite of service of notice upon them.

3. The counsel for the petitioner takes this Court to the contents of the complaint, wherein the averments against the fourth respondent are that she is a concubine of the first respondent. The reliefs sought in the petition are for maintenance, residence, return of dowry amount, damages equally with that of the dowry amount and other reliefs.

4. The contention of the learned Public Prosecutor is that quash petition is not maintainable in DVC in view of the ratio laid down by this Court in a judgment reported in **GIDUTHURI KESARI KUMAR AND ORS. V/s. STATE OF TELANGANA AND ANR**¹, wherein at paragraph 17 it was held as follows :

¹) 2015 [2] ALD [CrI] 470

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 section 12 of Domestic Violence Act is not a trial of a criminal case, whether the respondents can seek for quashment of the proceedings that they were un-necessarily roped in and court etc., pleas. In my considered view, having regard to the facts 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 un-unnecessarily roped in. They can establish their non-involvement in the matter and non-answerability to the reliefs claimed by participated in the enquiry. It is only exceptional cases like without there existing any domestic relationship as laid under section 2 [4] of the Domestic Violence Act between the parties, the petitioner filed DV case against them or a competent court has already acquitted them to 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 court"

5. In the same ruling it can be seen that the Court held that in exceptional cases the parties can approach the High Court for quashment of proceedings that is when there is no domestic relationship as laid under Section 2(f) of Domestic Violence case. In this case, the petitioner is stated to be concubine of the husband of the complainant. Hence, it cannot be said that there is any domestic relationship between her and the complainant.

6. Any of the reliefs sought for by the defacto complainant against the first respondent in DVC.No. 10 of 2010, cannot be claimed against this petitioner because she is not the person liable to maintain the complainant. In the complaint there is no allegation that she is the person, who received any dowry. So also residential order cannot be sought for against a 'concubine', who can not be considered as a person sharing the household. Hence, absolutely there is no grievance that can be entertained against this petitioner, who is the fourth respondent. Hence, continuation of proceedings is nothing but abuse of process of law.

7. Hence, the proceedings in DVC.No. 10 of 2010 on the file of the Court of Judicial Magistrate of First Class, Salur, Vizianagaram district against the petitioner/respondent are quashed.

8. With the above observations, this Criminal Petition is allowed.

9. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand disposed of.

JUSTICE T. RAJANI

SMT. JUSTICE T. RAJANI



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