

THE HON'BLE SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.764 of 2017

ORDER:

This petition is filed seeking to quash the proceedings in DVC.No.47 of 2016 on the file of the Additional Judicial First Class Magistrate at Karimnagar.

2. Heard the learned counsel for the petitioners and learned Public Prosecutor.

3. This petition is being disposed of at the stage of admission on agreement of the counsel on either side.

4. The counsel for the petitioners contends that the continuation of proceedings would be sheer abuse of process of law as the petition is not maintainable against the petitioners herein. He contends that there was never any domestic relationship between the petitioners and the complainant. Learned Counsel relied on a ruling of this Court in ***HIRAL P. HARSORA AND OTHERS vs. KUSUM NAROTTAMDAS HARSORA AND OHTERS***¹, wherein the Apex Court considered the preamble and statements of objects and reasons and Clauses (a), (f) and (s) of Section 2, and the expression of “adult male person” occurring in Section 2 (q), and also the other provisions of the Domestic Violence Act (for short ‘the Act’) and held that the expression ‘respondent’ in Section 2 of Clause (q) or persons who can be treated as perpetrators of violence

¹ 2016 (10) SCC 165

against woman against whom remedies available under the Act cannot be restricted to the expression “adult male person”. However, the law is well settled that even female member can be considered as ‘respondent’ depending on the facts and circumstances of the case. This Court in similar circumstances, in **A.K. SRINIVASA RAO vs. THE STATE OF A.P.**², held that the parties must have been living or must have lived together in a shared household along with the aggrieved person and that when any person who was so related who had been not living or had not lived together at any point of time with the aggrieved person and who had no domestic relationship, could not be made respondent to case filed by woman. Moreover, the domestic relationship must be in existence at relevant point of time when aggrieved person had been subjected to any act of domestic violence by the petitioners. It was also observed that when there was no averment in the petition of woman and no material was placed on record to show that the petitioners were having or had any domestic relationship with the first respondent. The definition of shared household under Section 2 (s) of the Act reads as under:-

“(s) shared household means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint

² (2015 (4) Crimes 498 (A.P.)

family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.”

5. The above definition would imply that even if the 1st respondent and the petitioners did not live together if the household belongs to a joint family of which the 1st respondent is a member, then she shall have a right. The facts of this case show that the 1st respondent is residing in quarters at Singareni Collieries and there is no averment to the effect that she has any right in the said house. The averments do not show that the 1st respondent stayed with the petitioners at any point of time. Her allegation is that, after the alleged suicide committed by her husband, she went to see him and she was informed by the neighbours that her husband was stabbed by a knife and if she goes to their house, they would kill her and then she returned to her village. Except stating that the petitioners are harassing the 1st respondent, she does not anywhere say that she lived together along with the petitioners. Hence there does not seem to be any domestic relationship between the parties and hence the petition under the Protection of Women from Domestic Violence Act cannot be maintained against the petitioners.

6. Hence, with the above observations, the Criminal Petition is allowed and further proceedings in DVC.No.47 of 2016 on the file of the Additional Judicial First Class Magistrate at Karimnagar are hereby quashed against the petitioners.

7. As a sequel, miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE T. RAJANI

Date: 25.10.2017
mrh

