

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.7629 OF 2013

ORDER:

This Criminal Petition is filed by the petitioners, who are respondents 2 to 4 in the Court below, seeking for quash of proceedings in D.V.C.No.5 of 2013 on the file of the Judicial First Class Magistrate, Alamuru, East Godavari district.

2. Heard learned counsel for the petitioners, learned counsel for the 1st respondent, and learned Public Prosecutor appearing for the 2nd respondent.

3. The counsel for the petitioners submits that there is no domestic relationship between the petitioners herein and the 1st respondent and, hence, the D.V.C. No.5 of 2013 is not maintainable against them.

4. A perusal of the complaint, and the affidavit filed by the 1st respondent, would show that she did not aver anywhere that the petitioners herein shared the household along with her. Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act') defines 'domestic relationship', which means a relationship between two persons who live or have, at any point of time, lived together in a shared household; and, 'shared household' is defined in that Section, under clause (s) of the Act, meaning as a household where the aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent. There is no submission by the 1st respondent to the effect that the petitioners herein have shared the household with her at any point of time. Hence, it is a case, which falls under the exceptions,

which are mentioned in the decision of this Court in ***Giduthuri Kesari Kumar and others Vs. State of Telangana and another***¹, as under:

“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 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.”

5. Hence, in the above circumstances, the D.V.C. No.5 of 2013 cannot be allowed to be proceeded with. Hence, the proceedings in D.V.C. No.5 of 2013 on the file of Judicial First Class Magistrate, Alamuru, are quashed against the petitioners.

Accordingly, the Criminal Petition is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T.RAJANI, J

Date: 19.12.2017.
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¹ 2015 (2) ALD (CrI.) 470

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