

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.1694 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioner in DVC No.17 of 2010 on the file of the Additional Munsif Magistrate's Court, Tenali.

2. Heard the counsel for the petitioner; the Public prosecutor appearing for the 2nd respondent; and also the counsel appearing for the 1st respondent.

3. This is a complaint filed against the petitioner and others under the provisions of the Protection of Women from Domestic Violence Act, 2005 (for short, "the Act"). The petitioner herein is allegedly the woman with whom the husband of the complainant developed illicit relationship. For a petition to be maintained against the respondent under the Act, there should be a domestic relationship, as laid under Section 2(f) of the Act, between the parties. But the allegations in the complaint do not anywhere spell that there was any shared household between the petitioner herein and the complainant.

4. Hence, the complaint cannot be maintained against this petitioner. Any further proceedings would only result in abuse of process of law.

5. This Court also in *Giduthuri Kesari Kumar v. State of Telangana*¹ held that since the remedies under the DVC Act are civil remedies and enquiry is not a trial of criminal case, the quash petition under Section 482 Cr.P.C. is not maintainable.

Relevant paragraph reads as follows:

“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.”

6. With the above observations, the Criminal Petition is allowed and the proceedings in DVC No.17 of 2010 on the file of

¹ (2015) SCC ONLINE HYD 17

the Additional Munsif Magistrate's Court, Tenali, are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

December 20, 2017
LMV

