

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.7563 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings in D.V.C.No.15 of 2011 on the file of VI Additional Judicial Magistrate of First Class, Warangal.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing for the 2nd respondent. None appears for the 1st respondent.

3. The counsel for the petitioners takes this court through the averments of the complaint wherein the allegations against the petitioners are that they demanded dowry from the complainant. The petitioners herein are the younger sister of the complainant and the maternal uncle of the husband of the complainant.

4. The Protection of Women from Domestic Violence Act, 2005 (for brevity, "the Act") defines the term, "domestic relation" under Section 2(f) as under:

2(f): -"Domestic Relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together in a joint family."

The above definition makes it clear that shared house hold is a must for putting a person in domestic relation with the complainant and under Section 12 of the Act, an aggrieved person or a Protection Officer or any other person may present

an application to the Magistrate. The “aggrieved person”, as defined under Section 2(a), is a woman, who has to be or who has been in a domestic relationship with the respondent.

5. The averments of the complaint do not anywhere spell that the petitioners were in domestic relationship with the complainant at any point of time. Thereby, the maintainability of the complaint against the petitioners cannot be upheld.

6. The counsel for the petitioners also brings to the notice of this Court that earlier a case was filed by the complainant herein against the other accused, including the 1st petitioner herein, for the offence under Section 498A IPC and Sections 3 and 4 of the Act. The said fact would by itself speak about the falsity of the allegations made against the 2nd petitioner herein. By virtue of the said fact itself, the proceedings against the 2nd petitioner can be quashed.

7. Insofar as the allegations against the 1st petitioner are concerned, it is already observed that there is no averment in the complaint that there was any shared house hold between the complainant and the 1st petitioner and that there was any domestic relationship between them. However, the demand of dowry shall not be a cause of action for the complainant to file a complaint under the Act. She has already lodged a complaint in respect of the said allegation. Hence, the continuation of the further proceedings against the petitioners in the above DVC would be an abuse of process of law.

8. With the above observations, the Criminal Petition is allowed and the proceedings in D.V.C.No.15 of 2011 on the file of VI Additional Judicial Magistrate of First Class, Warangal are hereby quashed.

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

T. RAJANI, J

November 6, 2017
LMV

