

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4427 of 2017

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C., by the petitioners–respondent Nos.2 and 3 to quash the proceedings in D.V.C.No.157 of 2016 on the file of the III Metropolitan Magistrate, Erramanzil, Hyderabad.

2. Heard the learned counsel for the petitioners and learned Assistant Public Prosecutor for the State of Telangana.

3. This Court can quash the proceedings under Section 482 Cr.P.C. in the following circumstances: (1) if the allegations made in the complaint do not constitute any cause of action, or (2) even if the allegations made in the complaint ex facie are taken to be true and correct, there is no possibility to grant reliefs against the petitioners, or (3) the continuation of the proceedings in DVC would amount to abuse of the process of the Court.

4. A perusal of the record reveals that the petitioners are respondent Nos.2 and 3 and the second respondent is the complainant in D.V.C.No.157 of 2016. A perusal of the record reveals that the 2nd respondent submitted complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act') against the petitioners and her husband before the Project Director, District Women and Child Development Agency, Hyderabad, who in turn transmitted the same to the competent Court. On receipt of the complaint, the learned Magistrate has taken the case on file and numbered it as DVC No.157 of 2016 and issued summons to the petitioners.

5. A perusal of the record reveals that the marriage of 2nd respondent was performed with the 1st respondent in the above DVC. Out of lawful wedlock, they were blessed with a baby. As per the allegations made in the complaint, the

petitioners herein and the 1st respondent in the above DVC harassed the 2nd respondent herein both physically and mentally for additional dowry.

6. The 2nd respondent filed the petition under Section 12 of the Act claiming the reliefs under Sections 18, 19, 20, 21 and 22 of Act. As per the principle enunciated in **VALISETTI CHANDRA REKHA V. STATE OF ANDHRA PRADESH¹, MOHIT YADAM V STATE OF ANDHRA PRADESH², MOHD. AKBER YASEEN V RIZWANA SULTANA³, MANGESH SAWANT V MINAL VIJAY BHOSALE⁴ AND GIDUTHURI KESARI KUMAR V STATE OF TELANGANA⁵**, the reliefs under Sections 18 to 23 of Act are civil in nature and there is no element of criminality therein. Therefore, the maintainability of present petition is very much doubtful. A perusal of the complaint *prima facie* reveals the role played by the petitioners herein.

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the view that it is not a fit case to quash the proceedings against the petitioners/respondent Nos.2 and 3 in DVC No.157 of 2016.

8. Learned counsel for the petitioners submitted that the petitioners are facing much difficulty to attend the Court on each and every adjournment. There is no dispute with regard to the identity of the petitioners. Even if the presence of the petitioners is dispensed with, no prejudice will be caused to the second respondent.

9. Having regard to the facts and circumstances of the case, the presence of the petitioners, who are respondents 2 and 3 in D.V.C.No.157 of 2016, on each and every date of adjournment before the trial court is dispensed with. However,

¹ 2010 (2) ALD (CrI.) 689 (AP)

² 2010 (1) ALD (CrI.) 1 (AP)

³ 2010 (2) ALD (CrI.) 680 (AP)

⁴ 2012 Cri.L.J. 1413 (Bombay)

⁵ 2016 (1) ALT (CrI.) 358 (AP)

they shall appear before the trial court as and when their presence is specifically required.

10. With the above observations, the Criminal Petition is disposed of. Miscellaneous petitions if any pending in this criminal petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 15-06-2017.

Hsd

