

SMT.JUSTICE T.RAJANI

CRIMINAL PETITION No.9392 OF 2011

ORDER:

This petition is filed seeking for quashing of proceedings against the petitioner in DVC.No.10 of 2011 on the file of I Additional Judicial First Class Magistrate, Kadapa.

2. Heard counsel for the petitioner and also public prosecutor, who takes notice for the 1st respondent. None appears for the 2nd respondent, in spite of notice.

3. The counsel for the petitioner brings to the notice of this Court that earlier a charge sheet was filed, closing the case against this petitioner, who figured as A2 in the said case. He further contends that there was never any domestic relationship between the complainant and this petitioner. This petitioner is admittedly working in Madanapalli, whereas, the complainant is residing in Kadapa. This petitioner is said to be the brother-in-law of the complainant. The contents of the complaint show that they are residing in different places. Any petition, which is filed under Section 12 of Domestic Violence Act, has to be only against the person who shares domestic relationship with the other persons, because, the definition of an aggrieved person who can maintain an application under Section 12 of the Domestic Violence Act, as per Section 2(a) is that she has to share

domestic relationship with the respondent. The domestic relationship definition under the same section 2(f) means a relationship between two persons who live or have, at any point of time, lived together in a shared household. Hence, when there is no domestic relationship between the complainant and the petitioner herein, the DVC case is not maintainable against him and any further proceedings in the said case only result in abuse of process of law.

4. The ruling of this Court in ***Giduthuri Kesari Kumar and Others Vs. State of Telangana***¹, supports the above conclusion.

“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.

¹ 2015 (2) ALD (CrI) 470

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. In the same ruling it can be seen that the Court held that in exceptional cases the parties can approach the High Court for quashment of proceedings that is when there is no domestic relationship as laid under Section 2(f) of Domestic Violence Act and if a competent Court has already acquitted the parties of the allegations, which are identical to ones leveled in domestic violence case.

6. Accordingly and with the above observations, this criminal petition is allowed and the further proceedings against the petitioner in DVC.No.10 of 2011 on the file of I Additional Judicial First Class Magistrate, Kadapa, are quashed.

7. Miscellaneous petitions pending consideration, if any, in this criminal petition shall stand closed in consequence.

T.RAJANI, J

05.12.2017
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