

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4206 of 2017

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C., by the petitioners-respondent Nos.2 to 5 to quash the proceedings in D.V.C.No.4 of 2017 on the file of the Court of Judicial Magistrate of First Class, Special Mobile, Guntur.

2. Learned counsel for the petitioners submitted that the petitioners have nothing to do with the family affairs of the second respondent. He further submitted that the second respondent is not entitled to claim any relief from the petitioners. Learned Assistant Public Prosecutor submitted that the reliefs sought under DVC Act are purely civil in nature, therefore, the present petition is not maintainable under law.

3. A perusal of the record reveals that the petitioners are respondent Nos.2 to 5 and the second respondent is the complainant in D.V.C. No.4 of 2017. The second respondent filed D.V.C. seeking various reliefs under Sections 18 to 22 of the Protection of Women from Domestic Violence Act, 2005. On receipt of the complaint, the learned Magistrate has taken the case on file and numbered it as D.V.C. No.4 of 2017 and issued summons to the petitioners.

4. 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.

5. A perusal of the record reveals that the marriage of the second respondent was performed with one Margani Vijaya Krishna on 29.11.2012 as per Hindu rites and customs. The first and second petitioner are the parents, third petitioner is the brother and fourth petitioner is the married sister of Vijaya Krishna. As per the allegations made in the complaint, the petitioners harassed the second respondent physically and mentally.

6. The second respondent filed the petition under Section 12 of the Protection of Women from Domestic Violence Act (DV Act) claiming the reliefs under Sections 18 to 22 of DV Act. As per the principle enunciated in *Valisetti Chandra Rekha v. State of Andhra Pradesh*¹, *Mohit Yadav v State of Andhra Pradesh*², *Mohd. Akber Yaseen v Rizwana Sultana*³, *Mangesh Sawant v Minal Vijay Bhosale*⁴ and *Giduthuri Kesari Kumar v State of Telangana*⁵, the reliefs under Sections 18 to 23 of DV 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.

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)

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 to 5 in DVC No.4 of 2017.

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 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 petitioner Nos.1 to 4, who are respondent Nos.2 to 5 in D.V.C.No.4 of 2017, on each and every date of adjournment before the court of Judicial Magistrate of First Class, Special Mobile, Guntur is dispensed with. However, 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

June 9, 2017.
Rns

