

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3036 OF 2017

ORDER:

The present petition is filed to quash the proceedings in D.V.C. No.4 of 2015 on the file of the I Additional Judicial Magistrate of First Class, Jagtial, Telangana State, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code').

2. Heard Sri M.V. Raja Raam, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

3. The learned counsel would submit that respondent No.2 is not the wife of petitioner and she is wife of brother of petitioner, by name Steven Speechly; she has filed the DVC only to extract money; and since she is held to be the mistress on the basis of the allegations, she is not entitled to any maintenance under Section 125 of the Code. The learned counsel would further submit that the learned Magistrate ought to have seen that whether respondent No.2 is a spouse or not has to be established in a competent Court of law and then only respondent No.2 is entitled to any maintenance as alleged and the reasons assigned by the learned Magistrate are unsustainable.

4. The learned Additional Public Prosecutor would strongly resist the request.

5. As could be seen from the tone and tenor of the petition, the petitioner herein is challenging the very proceedings in Domestic Violence Case No.4 of 2015 on the file of the I Additional Judicial Magistrate of First Class, Jagtial. But, on occasions, at some places, it gives an impression that the petitioner is questioning the interim order passed by the learned Magistrate in Crl.M.P. No.172 of 2016 in the aforesaid DVC, whereby and where-under, the learned Magistrate has allowed the petition by granting interim maintenance of Rs.5,000/- per month, directing the petitioner herein to pay the said amount on or before 10th of every succeeding month.

6. Aggrieved over the said order, dated 27.04.2016, the present petition appears to have been filed. It is needless to mention that when an interim order is passed under Section 23 of Protection of Women from Domestic Violence Act, 2005 (for short 'the Act'), as amended by Act No.43 of 2005, which came into effect on 26.10.2016, the statute provides remedy by way of an appeal under Section 29 of the Act. It would be appropriate for the petitioner herein to approach the Appellate Authority as envisaged under Section 29 of the Act, rather than coming to this Court for quashing the proceedings in DVC itself. Even otherwise, this Court earlier in **Gaddameedi Nagamani v. State of Telangana**¹ and **Giduthuri Kesari Kumar v. State of Telangana**², rendered by two different

¹ 2015 (2) ALD (Crl.) 746 (A.P.)

² 2015 (2) ALD (Crl.) 470 (A.P.)

Single Judges of this Court held that the quashment of the proceedings in Domestic Violence Case under Section 482 of the Code is not maintainable. Following the said decisions, this Court has also disposed of petitions for quashment of the proceedings in DVC.

7. As could be seen from the grounds agitated, they relate to disputed questions of fact, which can only be established during trial in DVC. The decision rendered by a Single Judge of this Court in **Somarapu Satyanarayana v. Vijaya Laxmi and another**³ relied on by the learned counsel for the petitioner is to the effect that in the absence of domestic relationship between the petitioner and respondent No.1, respondent No.1 will not be recognized as an 'aggrieved person' as defined under Section 2 (a) of the Act. In the present case, disputed questions of fact are occurring that can be resolved only when the evidence that would be let in by the respective parties in DVC.

8. Therefore, the present petition is liable to be dismissed and, accordingly, is dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the petition stand closed.

A. SHANKAR NARAYANA, J

April 18, 2017.

Mgr

³. 2015 (1) ALD (Crl.) 361