

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8888 of 2017

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioners/A.2 to A.5 to quash the proceedings in DVC No.23 of 2017 on the file of Judicial First Class Magistrate-cum-Special Magistrate at Nalgonda District, on the ground that none of the reliefs claimed in the petition can be awarded against these petitioners and that the aggrieved person is living at Deverakonda Town, Nalgonda, and the petitioners are nothing to do with the reliefs claimed in the petition.

Petitioner Nos.1 and 2 are in-laws and Petitioner Nos. 3 and 4 are married sister-in-law and brother-in-law of the second respondent herein, the aggrieved person. Respondent No.2 herein claimed various reliefs covered by Sections 18 to 22 of DVC Act and the relief of protection was claimed against all these petitioners i.e., her husband and relatives as claimed in last para of the petition. Therefore, the contention raised by the petitioners that respondent No.2 did not claim any relief against these petitioners is without any basis, in view of the specific relief claimed in the petition itself. However, the proceedings under DVC Act are not purely criminal proceedings, as per the Judgment of this Court in "*Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.*"¹, wherein it was held that since the remedies under D.V. Act are civil remedies, the Magistrate in view of his powers under Section 28 (2) of D.V. Act shall issue notice to the parties for their first appearance and shall not insist for the attendance of the parties for every hearing and in case of non-appearance of the parties despite receiving notices, can conduct enquiry and pass *ex parte* order with the material available. It is only in the exceptional

¹ 2015 (2) ALD (CrL.) 470 (AP)

cases where the Magistrate feels that the circumstances require that he can insist the presence of the parties even by adopting coercive measures. In view of the remedies which are in civil nature and enquiry is not a trial of criminal case, the quash petitions under Sec. 482 Cr.P.C. on the plea that the petitioners are unnecessarily arrayed as parties are not maintainable. 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.

In view of the guidelines laid down by this Court, the Court cannot exercise its jurisdiction under Section 482 Cr.P.C., except, where there was no domestic relationship or any proceedings under Section 31 of DVC Act are initiated. Here, it is not the case of the petitioners that there is any domestic relationship or any proceedings under Section 31 of DVC Act were issued. Therefore, this Court cannot exercise inherent jurisdiction under Section 482 Cr.P.C. to quash the proceedings under the Act.

One of the requests of the learned counsel for the petitioners is that the petitioner Nos. 1 and 2 are senior citizens and they are facing difficulty to appear before the Court in connection with DVC Case. But, this Court need not give any specific direction since the judgment of this Court in *Giduthuri Kesari Kumar's* case, it is made clear that the Court cannot insist the appearance of the respondents on every date of adjournment, except on the dates when the Court directed the parties to appear before the Court in connection with the proceedings.

Therefore, the Judicial First Class Magistrate-cum-Special Mobile Magistrate, Nalgonda, is directed to follow the guidelines issued by this Court in *Giduthuri Kesari Kumar's* case.

With the above direction, this Criminal Petition is disposed of.

Consequently, miscellaneous applications pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Date:19.09.2017
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