

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.8738 OF 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in DVC No.35 of 2016 on the file of the Additional Judicial First Class Magistrate, Addanki, Prakasam District on various grounds. But, this Court already took a view that the proceedings in DVC are predominantly civil in nature and this Court in "*Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.*"¹ it is 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 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.

In "*Ashish Dixit and Others v. State of Uttar Pradesh and another*"² also same principle was laid down.

In view of the principle laid down in the above judgments, it is clear that Section 482 Cr.P.C. has no application to cases filed under the Protection of Women from Domestic Violence Act if there is domestic relationship between the parties. Moreover, the proceedings under the Protection of Women from Domestic Violence Act are civil in nature and

¹ 2015 (2) ALD (CrL.) 470 (AP)

² (2013) 4 SCC 176

the power under Section 482 of Cr.P.C. can be exercised only when there exists no domestic relationship or any action initiated under Section 28 (2) of the Act but not in all other circumstances. Therefore, I find no ground to quash all further proceedings against the petitioners in D.V.C. No.35 of 2016 on the file of the Additional Judicial First Class Magistrate, Addanki, Prakasam District.

Accordingly, the criminal petition is dismissed at the stage of admission itself.

The miscellaneous petitions pending, if any, shall also stand closed.

Date:18.09.2017
ccm

JUSTICE M. SATYANARAYANA MURTHY



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