

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.1183 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Petition, 1973, is filed by the petitioner, to quash the proceedings in D.V.C.No.9 of 2015 on the file of the Judicial Magistrate of First Class, Peddapalli, Karimnagar District.

2. Heard the learned counsel for the petitioner, learned Public Prosecutor (Telangana) appearing for the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner would submit that there are material irregularities in the D.V.C. application. The Court below ought not to have taken cognizance and the DVC proceedings on file. Therefore, the proceedings in D.V.C.No.9 of 2015 on the file of the Judicial Magistrate of First Class, Peddapalli, Karimnagar District, are liable to be quashed.

4. On the other hand, the learned Public Prosecutor, relying on the decision of this Court in Gaddameedi Nagamani Vs. The State of Telangana and others¹, submitted that the appropriate remedy is available to the petitioner under Section 29 of the Domestic Violence Act, 2005, and that the proceedings under Section 482 of the Code of Criminal Procedure, 1973, are not sustainable.

5. It is evident from the record that the Court below had initiated proceedings in D.V.C.No.9 of 2015 against the petitioner and the same are pending before it. In Gaddameedi Nagamani's case

¹ 2015 (2) ALD (CrI.) 764 (AP)

referred *supra*, this Court held that taking cognizance and numbering the D.V.C. is within the meaning of the order used in Section 29 of the Domestic Violence Act, 2005, and against which, once there is an efficacious remedy is available by way of appeal under Section 29 of the Domestic Violence Act, 2005, the proceedings under Section 482 of the Code of Criminal Procedure, 1973, are not sustainable.

6. The facts of the cited case are squarely applicable to the facts of the instant case. When an efficacious remedy is available to the petitioner under Section 29 of the Domestic Violence Act, 2005, by way of appeal before the appropriate forum, it is not appropriate to determine the contentions raised by the petitioners in this Criminal Petition, which is filed under Section 482 of the Code of Criminal Procedure, 1973.

7. Accordingly, this Criminal Petition is dismissed as not maintainable.

Pending miscellaneous petitions, if any, in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

23rd October, 2017
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