

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4248 of 2017

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C., by the petitioners (respondent Nos.2 to 5 in DVC), to quash the proceedings in D.V.C. No.25 of 2016 on the file of the Court of the Special Judicial First Class Magistrate, Prohibition and Excise, Kurnool.

2 The facts leading to filing of the present petition, in brief, are as follows. The second respondent submitted a complaint before the Project Director/Protection Officer, District Women and Child Development Agency, Kurnool, who in turn transmitted the same to the learned Magistrate. On receipt of the complaint, the learned Magistrate has taken the case on file and numbered it as D.V.C. No.25 of 2016 and issued summons to the petitioners herein.

3 Heard the learned counsel for the petitioners and learned Assistant Public Prosecutor for the State of Andhra Pradesh.

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 the first respondent in DVC on 14.02.2013 as per Hindu Rites and Caste Customs. As per the allegations made in the complaint, the petitioners herein harassed the second respondent for additional dowry.

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, 19, 20 and 21 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 and **Mohd. Akber Yaseen v. Rizwana Sultana**³, 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.

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 D.V.C. No.25 of 2016.

8 Learned counsel for the petitioners submitted that the petitioners are facing much difficulty to attend the Court on each and every date of adjournment. The first petitioner is the mother-in-law, second petitioner is father-in-law and petitioner

¹ 2010 (2) ALD (CrI.) 689 (AP)

² 2010 (1) ALD (CrI.) 1 (AP)

³ 2010 (2) ALD (CrI.) 680 (AP)

Nos.3 and 4 are the brothers-in-law of the second respondent. Even if the presence of the petitioners is dispensed with, no prejudice will be caused to the second respondent.

9 Having regard to the facts and circumstances of the case, I am of the view that the presence of the petitioners, who are respondent Nos.2 to 5 in D.V.C.No.25 of 2016 before the trial Court may not be necessary on every date of adjournment. Accordingly, their presence for each and every adjournment before the trial court is dispensed with till disposal of D.V.C. No.25 of 2016. 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.

Date: 12.06.2017
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T.SUNIL CHOWDARY, J