

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.2579 of 2011

ORDER:

When the matter was taken up for hearing on 05.12.2017, as none appeared, it was directed to be listed under the caption 'For Dismissal'. Even today, when the matter is taken up for hearing, neither the petitioner appears nor there is any representation on his behalf. Hence, the matter is taken up for disposal on merits.

2. Heard the learned Public Prosecutor, who takes notice for the second respondent.

3. A petition was filed under Section 12(1) of the Protection of Women from Domestic Violence Act. The petitioner therein is stated to be the wife of the petitioner herein while the second respondent is the mother and third respondent is the sister of respondent No.1 and fourth respondent is the husband of the respondent No.3 therein. The allegations are that, after marriage, the complainant lived in the house of petitioner herein and thereafter, at the instigation of the other respondents, the petitioner herein started torturing the complainant and in spite of the torture, the complainant lived with him. Now she seeks for damages and for residential order apart from protection order. Hence, it is not a case, which falls under the exceptions, which are mentioned in the decision of this Court in *GIDUTHURI KESARI KUMAR v. STATE OF TELANGANA*¹ as under:

¹ 2015 (2) ALD (CrL.) 470

“13) The next aspect is having regard to the fact that the reliefs provided under [Section 18](#) to [22](#) are civil reliefs and enquiry under Sec. 12 of [D.V. Act](#) is not a trial of a criminal case, whether the respondents can seek for quashment of the proceedings that they were unnecessarily roped in and thereby continuation of the proceedings amounts to abuse of process of Court etc., pleas. In my considered view, having regard to the facts that the scheme of the Act which provide civil reliefs and the Magistrate can lay his own procedure by not taking coercive steps in general course and the enquiry being not the trial of a criminal offence, the respondents cannot rush with 482 [Cr.P.C](#) petitions seeking quashment of the proceedings on the ground that they were unnecessarily roped in. They can establish their non-involvement in the matter and non-answerability to the reliefs claimed by participating in the enquiry. 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.”

The criminal petition is dismissed as not maintainable. The interim stay, granted earlier in CRLPMP.No.2677 of 2011 dated 22.03.2011, shall stand vacated. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

T. RAJANI, J

December 15, 2017
DSK