

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.191 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Petition, 1973, is filed by the petitioners/respondent Nos.2 and 3, to quash the proceedings in D.V.C.No.2 of 2016 on the file of the Judicial Magistrate of First Class, Railway Koduru, YSR Kadapa District, insofar it relates to the petitioners herein/respondent Nos.2 and 3.

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

3. The learned counsel for the petitioners would submit that there are no 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.2 of 2016 on the file of the Judicial Magistrate of First Class, Railway Koduru, YSR Kadapa District, are liable to be quashed, insofar it relates to the petitioners/respondent Nos.2 and 3.

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.

¹ 2015 (2) ALD (CrI.) 764 (AP)

5. It is evident from the record that the Court below had initiated proceedings in D.V.C.No.2 of 2016 against the petitioners and the same are pending before it. In Gaddameedi Nagamani's case referred *supra*, this Court held that taking cognizance and numbering the D.V.C. is within the meaning of an order used in Section 29 of the Domestic Violence Act, 2005, and against which, there is an efficacious remedy 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 petitioners 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

24th October, 2017
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