

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10067 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in D.V.C.No.8 of 2017 on the file of the Additional Judicial Magistrate of First Class at Husnabad, Karimnagar District.

The petitioners are the in-laws of the second respondent herein and respondents 2 to 4, filed D.V.C.No.8 of 2017 under Section 12 of Protection of Women From Domestic Violence Act, 2005 (for short 'Act'), claiming various reliefs.

But, the proceedings under the Act are not purely criminal and this Court in **"Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors."**¹ laid down certain guidelines to quash the proceedings in D.V.C. Case in paragraph 14, which is as follows:

"14) To sum up the findings:

i) 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 exparte order with the material available. It is only in the exceptional cases where the Magistrate feels that the circumstance require that he can insist the presence of the parties even by adopting coercive measures.

¹ 2015 (2) ALD (CrL.) 470 (AP)

ii) 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. 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.”

In view of the guideline no. 1 in **Giduthuri Kesari Kumar** case, Magistrate 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 *exparte* order with the material available, like civil proceedings. It is only in the exceptional cases where the Magistrate feels that the circumstance require that he can insist the presence of the parties even by adopting coercive measures. Therefore, in view of the principle laid down in the above case, the Magistrate cannot insist appearance of the parties before the Court.

However, this Court can quash the proceedings, under exceptional circumstances, where there was no domestic relationship between the parties where the aggrieved party invoked the provisions of the Act. But, here, the present facts would not fall within the two exceptions mentioned supra.

In the result, the criminal petition is dismissed with the above observations.

Consequently, miscellaneous applications pending if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Dated:01.11.2017

SP

