

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10304 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in DVC.No.42 of 2017 on the file of the Special Judicial Magistrate of First Class (Excise), Eluru, West Godavari District filed under Sections 3 and 12 read with Sections 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 ("the Act" for brevity) claiming various reliefs filed by the second respondent against petitioners 1 to 5 and one another.

Petitioners raised various grounds regarding their residence at a distant place etc, but this Court took an objection about maintainability of the petition under Section 482 Cr.P.C. since the issue is squarely covered by the judgment of this Court in ***Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.***¹. This Court held that 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 ex parte order with the material available. It is only in the exceptional cases where the Magistrate feels that the circumstances require that he can insist the presence of the parties even by adopting coercive measures. In view of the remedies which are in civil nature and enquiry is not a trial of

¹ 2015 (2) ALD (Cr1.) 470 (AP)

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 defined 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 one 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 judgment of this Court, the present petition under Section 482 Cr.P.C. is not maintainable and hence, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

7th November 2017
RRB