

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

CRIMINAL PETITION NO.11214 OF 2017

**ORDER:**

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in D.V.C.No.52 of 2017 on the file of the II Additional Munsif Magistrate, Tenali, filed for the reliefs under Sections 18, 19, 20, 21, 22 and 23(2) of the Protection of Women from Domestic Violence Act ("the Act" for brevity).

The first petitioner is the husband and the second and third petitioners are in-laws of the first respondent respectively but the claim of the fourth petitioner is that he has not received any summons in DVC and hence, case against the fourth petitioner is withdrawn today.

The present petition is filed on various grounds mainly that the first respondent-aggrieved person suppressed the earlier marriage and married the first petitioner and lived for two days to perform customary ceremonies after marriage and thereafter, she was living with some other person. It is also contended that complaint was filed against the first respondent for marrying the first petitioner suppressing the earlier marriage and the marriage O.P. for divorce is filed where the first respondent contested by filing counter but without disclosing the same, allegations were made in the petition filed under Section 12(1) of the Act. Thereby, the present petition is filed to force these petitioners to withdraw the earlier complaint lodged against the first respondent.

During hearing, learned counsel for the petitioners reiterated the contentions stating that petitioner Nos.2 and 3 are aged 56 and

65 years respectively and requested this Court to quash the proceedings against them, as there was no domestic relationship as defined under Section 2(f) of the Act.

An identical question came up before this Court in ***Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.***<sup>1</sup>. This Court held that since the remedies under Act are civil remedies, the Magistrate in view of his powers under Section 28 (2) of the 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 criminal case, the quash petitions under Section 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 levelled 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.

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<sup>1</sup> 2015 (2) ALD (Cr1.) 470 (AP)

In view of the principle laid in the above judgment, this Court can exercise inherent jurisdiction under Section 482 Cr.P.C. when there is no domestic relationship as defined under Section 2(f) of the Act. But at this stage, it is difficult to hold that there is no domestic relationship as defined under Section 2(f) of the Act.

However, counsel for the petitioners requested this Court to direct the Magistrate concerned not to insist the appearance of the petitioners on every date of adjournment by applying the principle laid down in **Giduthuri Kesari Kumar** (1 supra).

Accordingly, the Criminal Petition is disposed of directing the Court below to follow the principle laid down in **Giduthuri Kesari Kumar** (1 supra). Miscellaneous petitions, if any, pending shall stand closed.

(M.SATYANARAYANA MURTHY, J)

21<sup>st</sup> November 2017  
RRB

