

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11701 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in D.V.C.No.6 of 2016 on the file of the III Additional Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam.

The petitioner/respondent No.5 is the sister-in-law of the 2nd respondent. The 2nd respondent filed DVC under Sections 18 to 22 of the Domestic Violence Act. The only contention of the petitioner before this Court is that since she is residing away to the place where the domestic violence was caused, she is in no way concerned with the case and that no relief is claimed against her and therefore, the proceedings against her may be quashed.

The jurisdiction of this Court in a petition to quash the proceedings under the Domestic Violence Act is limited. In "**Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.**"¹, this Court laid down certain guidelines to quash the proceedings in D.V.C. Case in paragraph 14, which are 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

¹ 2015 (2) ALD (CrL.) 470 (AP)

circumstances require that he can insist the presence of the parties even by adopting coercive measures.

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 guidelines issued by this Court, without touching the merits of the case, the criminal petition is disposed of directing the Magistrate concern to follow the guidelines prescribed in “**Giduthuri Kesari Kumar and Others case** referred supra.

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

JUSTICE M. SATYANARAYANA MURTHY

28.11.2017
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