

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION NO. 2338 OF 2013

ORDER :

This Criminal Petition is filed under section 482 of Cr.P.C., seeking quash of the Proceedings in DVC.No. 23 of 2012 on the file of the Court of Additional Judicial Magistrate of First Class-cum-Additional Munsif Magistrate, Chirala, Prakasam district.

2. Heard Sri Akurathi Ramakrishna, learned counsel for the petitioners/respondents 2 to 9 and the learned Public Prosecutor representing the first respondent and the learned counsel appearing for the second respondent.

3. The learned counsel for the petitioners submits that the petitioners are in no way concerned with the family affairs of the complainant/second respondent and that they are residing separately. He submits that notices served on the respondents at the address of the second respondent were received, though the second respondent is not residing on the same address, only in order to inform the respondents about the same.

4. The learned counsel further submits that the complainant filed a criminal case for the offences punishable under section 498-A of IPC and section 3 and 4 of Dowry Prohibition Act and the same was registered in Crime No.287 of 2012 of I-Town Police Station, Chirala showing all the respondents as accused. The Police after due investigation deleted all the petitioners and filed charge sheet only against respondent No.1. He further submits that the

allegations made in the said complaint are similar to the allegations made in this complaint.

5. The counsel for the second respondent on the other hand contends that the reliefs sought for under section 12 of the Protection of Women from Domestic Violence Act are independent of the reliefs sought for in the criminal proceedings.

6. But on perusal of the complaint filed in the criminal case would show that the allegations made in this complaint are all made in the said complaint also. The said complaint is filed on 14/11/2012, since then the complainant has been residing separately and hence no additional complaints against these petitioners/respondents than what were made in the earlier complaint, can be made.

7. The counsel for the petitioners relies on a judgment of this Court in **GIDUTHURI KESARI KUMAR AND ORS. V/s. STATE OF TELANGANA**, Represented by Public Prosecutor and Another¹., wherein this Court held at Para No.14 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 power 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.

¹) 2015 SCC-ONLINE HYD-17 -- CRL.P.NOs. 7289, 16576, 16607, 16608 of 2014

ii) 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 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 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.

8. Hence, in view of the above, this Court opines that all further proceedings in DVC.No. 23 of 2012 on the file of the Court of Additional Judicial Magistrate of First Class-cum-Additional Munsif Magistrate, Chirala, Prakasam district, against these petitioners/respondents 2 to 9 would only result abuse of process of law and hence they are quashed.

9. In the result, the Criminal Petition is allowed and all further proceedings in all further proceedings in DVC.No. 23 of 2012 on the file of the Court of Additional Judicial Magistrate of First Class-cum-Additional Munsif Magistrate, Chirala, Prakasam district, be and are hereby quashed.

10. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand disposed of.

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[RESULT :: ALLOWED]



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