

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.8730 of 2011

ORDER:

This criminal petition is filed, seeking for quash of the proceedings in D.V.C.No.5 of 2011, against the petitioners, who are respondents 2 to 5, on the file of the Judicial Magistrate of First Class, Tadepalligudem.

2. Heard the counsel for the petitioners and the learned Public Prosecutor, appearing for the first respondent. None appears for the second respondent in spite of notice.

3. The counsel for the petitioners submits that trial in respect of the husband of the defacto complainant has taken place in the Court below and the Court below disposed of the case against the husband, against which an appeal was preferred and in the appeal also, the Court observed that the complainant is not entitled for any residential order and that the house belongs to the mother-in-law of the complainant. The Court while rendering the said finding relied on a decision of the Supreme Court in *BATRA v. TARUNA BATRA* [2007 (2) ALD 66 (SC)]. As regards the facts of this case, the lower appellate Court observed that the defacto complainant was not residing in the said house and it observed that she would be entitled to claim a right of residence in a shared household, which means the house belonging to or taken on rent by her husband or belonging to the joint family of which the husband is a member. It was also made clear that the property in question neither belonged to the first respondent nor it was taken on rent by him nor it was a joint family property and it is the

exclusive property belonging to the mother-in-law of the defacto complainant. The counsel also submits that the case under Section 498-A IPC filed against the petitioners 1 to 4 herein also ended in acquittal by virtue of judgment in CC.No.403 of 2008 dated 22.04.2013 on the file of the II Additional Junior Civil Judge, Tadepalligudem.

4. Hence, in view of the above, this Court opines that continuation of further proceedings against the petitioners would only result in abuse of process of law.

In the light of the above, the criminal petition is allowed and the proceedings in D.V.C.No.5 of 2011, against the petitioners, who are respondents 2 to 5, on the file of the Judicial Magistrate of First Class, Tadepalligudem, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

September 28, 2018
DSK

T. RAJANI, J

