

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 2584 OF 2014

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioners to quash the proceedings against them in D.V.C.No. 186 of 2013 on the file of the Court of III Metropolitan Magistrate, Erramanzil, Hyderabad (for short, 'the Court below').

2. Respondent No. 2 filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act'), claiming various reliefs against the petitioners alleging that her marriage with petitioner No. 1 was performed on 16-04-2004 at Heera Hall, Abids, Hyderabad, in accordance with the custom, prevailing in Sikh Community. At the time of marriage, her parents presented cash of Rs.3,00,000/-. Immediately after the marriage, she joined with the petitioners and led happy marital life only for four months. Thereafter, petitioner No. 1 developed friendship with a girl and the petitioners started harassing her to bring additional dowry.

3. The present petition is filed on the ground that respondent No. 2 earlier lodged a report with the police alleging harassment by the petitioners for the offences punishable under Sections 498-A and 406 of IPC and Sections 4 and 6 of Dowry Prohibition Act; that after completion of investigation, the police filed charge sheet against the petitioners and the same was registered as C.C.No. 261 of 2008 on the file of the Court of XIII Additional Chief Metropolitan Magistrate, Hyderabad (for short, 'the trial Court'); that after full-fledged trial, the trial Court found the petitioners herein not guilty for any of the offences and accordingly acquitted them and that therefore the petitioners now are not liable to

be prosecuted in D.V.C. based on the same set of allegations that were made in C.C.No. 261 of 2008.

4. As seen from the material on record, a copy of the judgment in C.C.No. 261 of 2008 has been filed along with the petition, whereunder the petitioners were found not guilty and accordingly they were acquitted of the offences punishable under Sections 498-A and 406 of IPC and Sections 4 and 6 of Dowry Prohibition Act. This Court in ***Giduthuri Kesari Kumar and others Vs. State of Telangana and another***¹ had an occasion to deal with a similar situation, wherein it was held that when petitioners have already been acquitted of the allegations which are identical to the ones leveled in Domestic Violence Case, they can seek for quashment of the proceedings since continuation of the proceedings in such instances would certainly amount to abuse of process of the Court. A perusal of the petition in D.V.C. and the allegations made in C.C.No. 261 of 2008 shows that both the allegations are one and the same within the definition under Section 3 of the Act. Following the principle laid down in ***Giduthuri Kesari Kumar*** (*supra*), the proceedings against the petitioners are liable to be quashed and are accordingly quashed.

5. The criminal petition is allowed quashing the proceedings against the petitioners in D.V.C.No. 186 of 2013 on the file of the Court of III Metropolitan Magistrate, Erramanzil, Hyderabad. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 20-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

¹ 2015 (2) ALD (Cr.) 470 (AP)