

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No. 872 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioner/respondent seeks to quash the proceedings against him in DVC No. 121 of 2012 pending on the file of Additional Judicial First Class Magistrate, Karimnagar.

2. First respondent herein filed DVC No. 121 of 2012 under Section 12 of Protection of Women from Domestic Violence Act 2005 (for short "DV Act") against the petitioner/respondent, who is her husband seeking following reliefs :

- (a) Prohibiting the respondents from raising domestic violence;
- (b) Directing the respondent No. 1 to pay an amount of Rs. 5,000/- per month towards maintenance for food, cloths, medicine etc.;
- (c) Directing the respondent No. 1 to pay Rs. 2,000/- per month towards rent for shelter;
- (d) Directing the respondent to pay Rs. 50,000/- towards compensation for mental agony.

3. Denying the complaint allegations, learned counsel for petitioner/respondent would submit that on the same allegations, earlier the respondent/petitioner and her daughters filed O.S.No. 145 of 1977, seeking maintenance against petitioner/respondent and after full-fledged trial, the trial Court held that the first plaintiff i.e., the respondent/petitioner is not entitled to separate maintenance. He would thus submit that continuation of proceedings in DVC No. 121 of 2012 would amount to abuse of process of Court.

4. Perused the contents in the complaint filed under Section 12 of DV Act and the averments in O.S.No. 145 of 1977.

5. In DVC, the respondent/petitioner took the plea that her marriage with the petitioner/respondent took place on 13.5.1964. Thereafter, they lead happy marital life and they were blessed with two daughters and a son and about six or seven years later, the petitioner/respondent developed contacts with one Sampurna and started beating her demanding additional dowry and ultimately he necked her out of the house and she took shelter in the house of her brothers and parents. On those allegations, she claimed the reliefs under DV Act as stated supra.

6. While so, in O.S.no. 145 of 1977 also she took similar pleas stating that her marriage was solemnized in 1963 with the defendant and they begot plaintiffs 2 to 4 and the defendant started ill-treating her on flimsy grounds and when the plaintiff No. 2 was one month old, the defendant beat the first plaintiff and drove her out of the house and she went to her parents' place at Metpalli Village and lived there for two years. The contention of the petitioner/respondent as defendant in that suit is that when the first plaintiff and defendant were living at Neralla Village, the first plaintiff went along with plaintiff No.2 to see jathara of Yella Reddypet Village on 5.1.1966 with his permission and she failed to return on 6.1.1986 as agreed. Instead she went to her parents house and even though the defendant and elders advised her she failed to return to the defendant. Therefore, the defendant filed O.P.No. 31/1970 for restitution of conjugal rights. Thereafter, the OP was dismissed and the plaintiff came to the house of the defendant and lived with him for about three months. While so, on 20.11.1971, the first plaintiff's brother and others came in a jeep and took away the first plaintiff to their house in the absence of the defendant. Thereafter, the defendant and elders went and requested her to return but she refused to come. Thus defendant took a plea that the plaintiff herself left his society and she does not deserve

maintenance. The trial Court ultimately held that the first plaintiff i.e., respondent/petitioner is not entitled to maintenance.

7. As the claims, in both the matters are more or less similar in nature, and in the suit for maintenance, the claim for maintenance of respondent/petitioner in O.S.No. 145 of 1977 is dismissed, the continuation of the proceedings in DVC No. 121 of 2012, in my considered view, would amount to abuse of process of the Court.

8. Accordingly, the Criminal Petition is allowed and the proceedings in DVC No. 121 of 2012 against petitioner/respondent are quashed.

As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 13.07.2018
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U.DURGA PRASAD RAO, J

