

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.78 of 2017

ORDER:

This petition is filed seeking for quash of proceedings against the petitioners, who are respondent Nos.1 to 5 in D.V.C.No.16 of 2016 on the file of Judicial Magistrate of First Class, Jaggayyapet, Krishna District.

2. Heard the learned counsel for the petitioners and learned Public Prosecutor for first respondent. None appears for the respondents 2 & 3, in spite of notice.

3. A perusal of the complaint discloses several allegations made with regard to the petitioners' harassing the respondents 2 & 3 herein, but the proceedings being under the Protection of Women from Domestic Violence Act, 2005, quash petition is not maintainable unless there is no domestic relationship between the petitioners and the respondents 2 and 3. In support of the above view, judgment of this Court can be referred to in *GIDUTHURI KESARI KUMAR v. STATE OF TELANGANA*¹. The learned counsel for the petitioners submits that petitioner No.3 is the sister; petitioner No.4 is brother-in-law; and petitioner No.5 is uncle of the first petitioner and that they do not share any domestic relationship with the respondents 2 and 3 and that they are not residents of the same house.

4. A perusal of the complaint also does not anywhere spell that the petitioner Nos.3 to 5 are residing or have resided in the same house at any point of time. In the above circumstances,

¹ (2015) SCC ONLINE HYD 17

the Criminal Petition is allowed to the extent of petitioner Nos.3 to 5 are concerned and the further proceedings against them in D.V.C.No.16 of 2016 are quashed. But so far as petitioners 1 and 2 are concerned, they have domestic relationship with the respondents 2 and 3 and hence, the proceedings, so far as petitioner Nos.1 and 2 are concerned, are permitted to go on and the petition to that extent is dismissed. However, the request of the counsel for the petitioners, with regard to second petitioner to dispense with her presence, is found to be reasonable. Hence, the Court below is directed not to insist upon the presence of the second petitioner unless her presence is required for the proceedings.

5. The Criminal Petition is accordingly disposed of.

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

January 03, 2018
Tsr

T. RAJANI, J