

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.5351 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners in CrI.M.P.No.84 of 2018 in D.V.C.No.20 of 2017 on the file of Judicial Magistrate of First Class at Mahabubnagar.

The second respondent/defacto complainant filed D.V.C.No.20 of 2017 and CrI.M.P.No.84 of 2018 under Section 91 Cr.P.C during pendency of petition to direct the operators 1 to 5 to produce the data from the mobile number of the second respondent and one Khanna.

The only objection taken by this Court is maintainability of the petition that appeal is provided under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short 'Domestic Violence Act').

Learned counsel for the petitioners contended that, an appeal lies to the Sessions Court within 30 days only against an order passed under the Domestic Violence Act, but not under the provisions of Cr.P.C. But, this ground is not substantiated by any material.

Section 29 of Domestic Violence Act is clear that an appeal lies to the Court of Sessions within 30 days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

Therefore, any order passed in a petition is appealable as per Section 29 of the Act only to the Sessions Judge. Therefore, the petition is not maintainable when an appeal lies against this order under challenge in view of Section 29 of Domestic Violence Act. Hence, the criminal petition is dismissed, granting leave to these petitioners to file an appeal under Section 29 of Domestic Violence Act and the Registry is directed to return the certified copy of the order under proper acknowledgment from the learned counsel for the petitioner, enabling the petitioners to file appropriate appeal before the Sessions Court.

In the result, criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.07.2018

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