

THE HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 506 OF 2013

ORDER :

This criminal petition is filed under Section 482 of Criminal Procedure Code, seeking to quash the proceedings in D.V.C.No. 6/2012 on the file of JFCM, Huzurnagar, Nalgonda District, against the petitioners / Accused 2 to 4 and also for grant of stay of all further proceedings.

2. Vide order dated 24.01.2013, an interim stay of all further proceedings for a period of six weeks was granted, while issuing notice before admission to the respondents. Thereafter, the stay has been extended from time to time. Notices have been sent to the 2nd respondent and Sri S.Chandra Mohan Reddy filed Vakalath on behalf of the 2nd respondent.

3. There is no representation on behalf of the Petitioners and also on behalf of the 2nd respondent. Heard the learned Public Prosecutor and perused the material on record.

4. This criminal petition is filed in the year 2013, seeking to quash the proceedings in DVC No.6 of 2012, on the file of the Court of the JFCM, Huzurnagar, Nalgonda District against the petitioners/Accused 2 to 4. The learned Public Prosecutor submits that the petitioner No.1 to 3 are accused No.2 to 4 in D.V.C. 6/2012 on the file of JFCM, Huzurnagar, Nalgonda District.

5. The 2nd respondent has filed the said case under Section 18, 19, 20 and 22 of D.V.C. Act. 2005, seeking various protections under the Act. The learned Public Prosecutor submitted that the

police have filed Charge Sheet against the petitioners, in FIR 32 of 2012, dated 07.03.2012, registered under Section 498 (A) IPC. He further submitted that as per the contents of charge sheet, the evidence collected during the course of investigation and as per detailed and discreet enquiries the petitioners D.Prabhudas, D.Satyavathi and K.Vijaya are no way concerned with the offence under Section 498-A, IPC.

6. Placing reliance on the charge sheet filed by the police, the learned public prosecutor submits that there are no ingredients under Section 498-A and also ingredients under DVC Act and therefore, quashing of D.V.C. Act proceedings may be considered.

7. This Court, in Criminal Petition No. 7289/2015 and the Batch in the case of Giduthuri Kesari Kumar and Ors. Vs. State of Telangana and Ors., this Court has observed as under :

“Since the remedies under D.V. Act are civil remedies, the Magistrate in view of his powers under Section 28(2) of D.V. Act shall issue notice to the parties for their first appearance and shall not insist for the attendance of the parties for every hearing and in case of non appearance of the parties despite receiving notices, can conduct enquiry and pass *ex parte* order with the material available. It is only in the exceptional cases where the Magistrate feels that the circumstance require that he can insist the presence of the parties even by adopting coercive measures.

In view of the remedies, which are in civil nature and enquiry is not a trial of criminal case, the quash petitions under Sec. 482 Cr.P.C. on the plea that the petitioners are unnecessarily arrayed as parties are not maintainable. It is only in exceptional cases like without there existing any domestic relationship as laid under Section 2(f) of the D.V. Act between the parties, the petitioner filed D.V. case against them or a competent Court has already acquitted them of the allegations which are identical to the ones leveled in the domestic violence case, the respondents can seek for quashment of the proceedings since

continuation of the proceedings in such instances certainly amounts to abuse of process of Court.

In that view, when the present Criminal Petitions are perused, except CrI.P.No. 7289 of 2014, the other petitions are filed with the plea that there is no domestic violence and the petitioners were unnecessarily roped in the case. Hence, they are held not maintainable and accordingly dismissed. In CrI.P.No. 7289 of 2014, the ground for quashment of proceedings is that the earlier CC No. 554/2010 for the offence under Section 498-A IPC with similar allegations was acquitted. Hence, the said petition is taken up for hearing. Criminal Petition Nos 16576, 16607, 16608 of 2014; 76,99,226, 311, 388, 395, and 476 of 2015 are dismissed.”

8. In the case of *Giduthuri Kesari Kumar and another*, this Court took the view that D.V.C. case is of a civil in nature. In view of the facts of this particular case, the petitioner may approach the D.V.C. Court and produce the Charge Sheet before the Court and the learned Magistrate may pass appropriate orders in this matter, considering the contents of the Charge Sheet and the allegations made in the D.V.C. Petition. The D.V.C. is pertaining to the year 2012 and it appears that all further proceedings are stayed by this Court, and it is also obvious that the proceedings under Section 498-A initiated against the petitioners have come to an end by filing a final report by the police, stating that allegations are not made out in their investigation under Section 498-A. However, it is stated that the complainants have also filed a protest petition in 498-A case and it is pending. In the background of the facts and circumstances of the case and in the light of the decision referred above, the petitioner is directed to approach the Trial Court in D.V.C. No., 6/2012, seeking his remedy under the provisions of the Act. Since the petitioners appearance is dispensed by this Court and interim stay was already granted, the appearance of the

petitioners is dispensed with before the trial court in D.V.C. Court except on occasion where their presence is required. With this observation, this Petition is disposed of.

9. The interim stay granted on 24.01.2013 shall stand vacated. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

GUDISEVA SHYAM PRASAD, J

3rd April, 2018

JR.



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