

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.2442 AND 2443 of 2013

COMMON ORDER:

These petitions are filed by the petitioner, who is the 4th respondent in the DVC and A4 in the CC respectively, seeking to quash the proceedings in DVC No.7 of 2011 on the file of I Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District and CC No.242 of 2011 on the file of the court of II Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District. The offences alleged are under Sections 498A r/w 34 IPC.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the 2nd respondent as well as the counsel appearing for the 1st respondent.

3. In the complaint filed seeking for prosecution of Section 498A, the statement of the victim was recorded and in her statement, she vaguely states that the petitioner along with her mother-in-law used to abet her husband, but in the end of her statement, she only insists that action should be taken against her husband, father-in-law and mother-in-law. Hence, by virtue of the tenor expressed in the statement, it can be understood that the petitioner did not have any role to play in the alleged harassment.

4. The counsel for the petitioner also relies on the ruling of the apex court reported in ASHISH DIXIT & ORS. VS. STATE

OF UP & ANR¹ rendered in Criminal Appeal No.43 of 2013 (Special Leave Petition (Crl.) No.8522 of 2010), wherein, at paragraph 4, it was observed as follows:

“In a matter of this nature, we are of the opinion that the High Court at least should have directed that the petition filed by respondent No.2 be confined to her husband as also her parents-in-law and should not have allowed the impleadment of respondent Nos.4 to 12.”

5. In view of the above, continuation of further proceedings in the CC against the petitioner would only result in abuse of process of law.

6. So far as the proceedings against the petitioner in the DVC are concerned, the counsel for the 1st respondent contends that there are specific allegations made against this petitioner also in the complaint in DVC. But the fact that this case is filed prior to the complaint filed under Section 498A IPC and that the complainant does not reiterate the allegations made in the DVC case in the complaint filed under Section 498A IPC, would show that the allegations made in the DVC are also not genuine.

7. Apart from the above, the relief, sought for against the petitioner, under the DVC, is also not sustainable against her.

8. Considering the above, this court opines that the continuation of proceedings against the petitioner in the DVC also would be an abuse of process of law.

¹ (2013) 4 SCC 176

9. With the above observations, the Criminal Petitions are allowed and the proceedings in DVC No.7 of 2011 on the file of I Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District and CC No.242 of 2011 on the file of the court of II Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District, are hereby quashed.

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

November 27, 2018
LMV

T. RAJANI, J

