

**THE HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**CRIMINAL PETITION No. 1001 OF 2013**

**ORDER:**

This petition is filed under Section 482 of Criminal Procedure Code, seeking to quash the proceedings in D.V.C. No.3 of 2013 on the file of Court of the Hon'ble Judicial Magistrate of First Class, Huzurnagar, Nalgonda District.

2. The brief facts of the case are that the petitioner No.1 is the husband of the *de facto* complainant, the petitioner No.2 and 3 are mother-in-law and father-in-law of the *de facto* complainant and the Petitioner No.4 is brother of the petitioner No.1. The Petitioner No.2 to 4 are living separately for the past 8 years from the date of marriage of petitioner No.1 with the *de facto* complainant. The marriage of the petitioner was solemnized on 22.11.2007 and they were blessed with daughter. The allegations of the *de facto* complainant are that the petitioners have harassed her physically and mentally for additional dowry. The petitioner No.1 often used to come in drunken condition and beats the *de facto* complainant and threatened her that he would kill her and her daughter, if the demand was not met.

3. The counsel for the petitioners is not present and no arguments are advanced on their behalf.

4. The learned counsel for the 2<sup>nd</sup> respondent submits that the criminal petition is not maintainable to quash the proceedings in D.V.C., in view of the recent judgment of this Court, rendered in the case of **Giduthuri Kesari Kumar and Ors. Vs. State of Telangana and Ors.** in Criminal Petition No. 7289 of 2015. dated 16<sup>th</sup> February, 2015. This Court took the view that D.V.C. case is

of a civil in nature and no quash petition is maintainable under this provisions to quash these proceedings under D.V.C. Act. Therefore, it is submitted that the quash petition is not maintainable and is liable to be dismissed.

5. In the light of the judgment rendered by this Court in Criminal Petition No. 7289/2015 and Batch dated 16<sup>th</sup> February, 2015 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.”

6. The learned Public Prosecutor submits that in the light of the decision referred above, quash proceedings are not maintainable under Section 482 of Cr.P.C.

7. It is further submitted that the proceedings under D.V.C. Act are of civil relief oriented. The reliefs are the protection orders, a residence order, grant of maintenance. The remedies are quasi judicial in nature. The quash petition under Section 482 Cr.P.c. is not maintainable, except under exceptional circumstances. It is further submitted that there are no exceptional circumstances in this case to quash the proceedings.

8. On consideration of the arguments of the learned counsel for the respondents and in the light of the decision referred above, in the case of **Giduthuri Kesari Kumar and Ors. Vs. State of Telangana and Ors.**, unless in the exceptional circumstances, stated, thus the proceedings under the D.V.C. Act, cannot be quashed. The proceedings in D.V.C. Act are Civil in nature in respect of relief claimed under Section 18 to 22 of the D.V.C.Act.

9. In view of the averments in the complaint there was a demand for dowry, and as demand was not met , causing physical and mental harassment to the *de facto* complainant by causing domestic violence are the allegations made in the petition, as such there are no valid grounds to quash the proceedings. Since, the interim stay has already been granted and the vacate stay petition is pending, the same are closed, however dispensing with the presence of petitioner except on the occasion required by the

Court. With these observations the criminal petition is disposed of accordingly.

10. Consequently, miscellaneous petitions pending, if any, shall stand closed.

**GUDISEVA SHYAM PRASAD, J**

**3<sup>rd</sup> April, 2018**

JR.



**THE HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD**



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