

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.6408 OF 2014

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in D.V.C.No.51 of 2014, pending on the file of I Additional Chief Metropolitan Magistrate, Vijayawada.

The 2nd respondent filed application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 claiming various reliefs covered under Sections 18 to 20 of the Act. The 1st petitioner is the husband, the 2nd petitioner is the brother-in-law and the 3rd and 4th petitioners are in-laws and the 5th petitioner is the sister-in-law of the 2nd respondent.

The contention of the petitioners is that they are implicated in DVC case and that no way responsible for the alleged domestic offence and therefore, they are not liable to be proceeded under Section 12 of the Act.

During hearing, learned counsel for the petitioners while reiterating the contentions urged in the petition, placed the judgment of the Apex Court in **Giduthuri Kesari Kumar and others v State of Telangana and another**¹, the petitioners 2 to 5 are no way concerned with the alleged domestic violence and therefore, the proceedings against them are liable to be quashed.

Section 2(f) of the Act defined the word “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.

¹ 2015(2) ALD (Crl) 470

Here, the petitioners are residents of Door No.21/192, Kamati Street, Chinna Bazar, Nellore Town. The marriage between the 1st petitioner and the 2nd respondent is not in dispute and due to marriage there exists a domestic relationship as defined under Section 2(f) of the Act between the petitioners and the 2nd respondent. Therefore, the proceedings under Section 12 of the Act cannot be quashed.

The second contention urged before this Court is that they are living at different places and they are no way concerned. At this stage, to decide such question at best, the Court has to go into the allegations made in the petition to find out whether there was domestic violence as defined under Section 2(g) read with 3 of the Act and if the allegations made in the application filed before the Magistrate disclose the commission of any act of domestic violence as defined under Section 2(g) read with 3 of the Act, the proceedings cannot be quashed. In **Giduri Kesari Kumar and others'** case referred supra, the Court after reviewing the entire law about quashment of proceedings under the Act, at para 13 it was stated that the respondents can seek for quashment of the proceedings that they were unnecessarily roped in and thereby continuation of the proceedings amounts to abuse of process of Court etc. When question came for consideration, the Court held that having regard to the facts that the scheme of the Act which provide civil reliefs and the Magistrate can lay his own procedure by not taking coercive steps in general course and the enquiry being not the trial of a criminal offence, the respondents cannot rush with 482 Cr.P.C. petitions seeking quashment of the proceedings on the ground that they were unnecessarily roped in. They can establish their non-involvement in the matter and non-answerability to the reliefs claimed by participating in the enquiry. 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 the Court.

But here, it is not their case that there was no subsisting relationship as defined under Section 2(f) of the Act and that the identical allegations were decided by competent Court by any other Court. Therefore, following the principle in **Giduturi Kesari Kumar and others' case** referred supra, I find that it is a fit case to direct the I Additional Chief Metropolitan Magistrate, Vijayawad to follow the guidelines issued in **Giduturi Kesari Kumar and others' case** referred supra.

With the above observation, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

12.06.2018
kvrm

M.SATYANARAYANA MURTHY,J