

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.11401 of 2018

ORDER :

This Criminal Petition is filed by the petitioner/respondent No.2 under Section 482 Cr.P.C seeking to quash the proceedings in D.V.C. No.67 of 2018 on the file of the learned XXIII Metropolitan Magistrate, Rajendranagar.

2. Heard the learned counsel for petitioner and perused the material on record.

3. The contention of the learned counsel for the petitioner that the subject matter already covered by the expression of this Court in *Gaddameedi Nagamani V. State of Telengana*¹. Undisputedly, the scope of Section 29 of the Domestic Violence Act is not referred in earlier expressions of the Apex Court, even much less came for consideration but for the general observation saying the refusal to entertain the quash saying not connected with offence in the domestic violence is not sustainable (It is because the procedure is almost akin to Section 125 of Cr.P.C. and quasi criminal in nature). It is needless to say the remedy is to file an appeal against the order in D.V.C as per Section 29 of the Protection of Women from Domestic Violence Act as an efficacious remedy is any order includes taken on file by the learned Magistrate by application of mind. In fact, the Apex Court in *State of Haryana v. Bhajan Lal*² laid down the seven guidelines which include showing of no other alternative or efficacious remedy as per clause (f) of

¹ 2015(3) ALT (CrL.) 263

² AIR 1992 SC 604

(a to g) to maintain the quash proceedings. Here, once there is an efficacious appeal remedy provided undisputedly even to impugn the taking of cognizance (taken on file) of the matter for the relief sought, such order to impugn before Court of Sessions, this Court is not inclined to stretch its hand to admit for quash the proceedings.

4. In the result, this Criminal Petition is disposed of giving liberty to the petitioner to move the trial Court to dispense with the personal presence of the petitioner but for one by invoking Rule 37 of Criminal Rules of Practice or Section 205 Cr.P.C or Section 126(2) Cr.P.C if not dispensed with under Section 126(2) Cr.P.C of his presence to record the evidence in the presence of his advocate and in such an event, the learned Magistrate after hearing shall consider and allow the same with necessary conditions. Needless to say as the petitioner instead of filing an appeal before the Sessions Judge approached this Court, the petitioner can file a petition before the appellate Court concerned to condone the delay caused by deducting the period from the date of filing this petition till today.

Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

30.10.2018
MVA