

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.13840 OF 2018

ORDER:

The petitioner/complainant in this petition filed under Section 482 Cr.P.C. seeks an order of this Court directing the XI Metropolitan Magistrate at L.B.Nagar, Ranga Reddy District, to order the presence of all the respondents in D.V.C.No.87 of 2018 at least for their first appearance and then consider dispensing with their presence only after their first appearance.

2. Heard learned counsel for petitioner.

3. This petition can be disposed of, in the considered view of this Court, in the light of the judgment of this Court in **Giduthuri Kesari Kumar and others v. State of Telangana and another¹**, without the exigency of ordering notice to the respondents. The operative portion of the said judgment reads thus:

“14. To sum up the findings:

- (i) *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*

¹ 2015 (2) ALD (CrL.) 470

that he can insist the presence of the parties even by adopting coercive measures.”

4. In view of the above observation of this Court, if respondents do not choose to appear before the trial court, despite receiving notices, the court has power to pass *ex parte* orders exercising its discretion. Therefore, the question of directing the trial court to order the respondents to appear at least once before the trial court does not arise as the judgment is crystal clear as to what is to be done if the respondents do not appear despite receiving notices. As such, no orders need to be passed in this petition in view of the aforesaid judgment.

5. Accordingly, with the above observations, this criminal petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

26.12.2018
SS