

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.3592 of 2022

ORDER:

The present Criminal Petition is filed under Section - 482 of the Code of Criminal Procedure, 1973 (for short 'Code') to quash the proceedings in D.V.C.No.94 of 2021 on the file of III Metropolitan Magistrate, Hyderabad. The petitioners herein are respondents in the said DVC. The said DVC is filed by respondent No.1 herein under Section 12 r/w. Sections 17 to 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 (for short 'Act, 2005') against the petitioners seeking various reliefs.

2. Heard learned counsel for the petitioners and the learned Public Prosecutor appearing on behalf of respondent No.2 - State. Perused the record.

3. The learned counsel for the petitioners would submit that the petitioners herein never harassed the 1st respondent as alleged by her in the complaint. The 1st

respondent falsely implicated the petitioners in the present case. There are no allegations, much less specific allegations against the petitioners. In view of the same, he sought to quash the proceedings in the said DVC by dispensing with their presence before the trial Court.

4. On the other hand, the learned Assistant Public Prosecutor would submit that there are specific allegations made against the petitioners by the 1st respondent in the complaint filed under Section - 12 of the Act, 2005 and that the petitioners shall co-operate in concluding the trial before the Court below. In view of the same, he sought to dismiss the present petition.

5. As per the contents of the petition filed under Section - 12 of the Act, 2005, the marriage of respondent No.1 with the one Rohit Saini Choudhary was performed on 26.02.2020. After marriage, the petitioners herein started harassing the 1st respondent.

6. In this regard, it is apt to refer to the decision rendered by a learned Single Judge of High Court of Judicature for the States of Telangana and Andhra Pradesh in **Giduthuri Kesari Kumar v. State of Telangana**¹, which is as under:

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

ii) 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

¹. 2015 (2) ALD (CrL.) 470 (AP)

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."

7. Considering the said facts and circumstances of the case and also in view of the principle laid down in the above Judgment, this Court is inclined to dispense with the presence of the petitioners in the DVC proceedings.

8. In view of the above discussion, the present Criminal Petition is disposed of, dispensing with personal appearance of petitioners herein in D.V.C.No.94 of 2021 on the file of III Metropolitan Magistrate, Hyderabad.

As a sequel, miscellaneous petitions, if any, pending in the Criminal Petition shall stand closed.

K. LAKSHMAN, J

Dated: 19th April, 2022
KHRM

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CRIMINAL PETITION No.3592 of 2022

19th April, 2022

KHRM