

THE HONOURABLE SMT. JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION No.11818 of 2023

ORDER:

This Criminal Petition is filed by the petitioner-respondent No.5 seeking to quash the proceedings against her in D.V.C.No.18 of 2022 on the file of Additional Junior Civil Judge-cum-Judicial First Class Magistrate, at Suryapet.

02. Heard Mr. Baglekar Akash Kumar, learned counsel for the petitioner-respondent No.5 and Smt.S.Madhavi, learned Assistant Public Prosecutor for the State. There is no representation on behalf of respondent No.2. Perused the record.

03. The gist of the case, in brief, is that the marriage of respondent No.2 with petitioner was performed in the year 2020. She joined the conjugal society of the petitioner No.1 at Suryapet and for three months of their marriage, they looked after her well and thereafter, her in laws made her to do all the household works without the help of any one. Later they started harassing her for want of additional dowry from her parents and she informed the same to her mother and

her mother used to come and give amounts demanded by them and requested the petitioners to look after her welfare with love and care. After that herself and her husband lived at Hyderabad in the house of the petitioner-respondent No.5 and at that time also they insisted her mother to arrange the household articles to them.

04. Learned counsel for the petitioner submitted that the petitioner herein is sister in law of respondent No.2 and the allegation against her is that she stays in America and used to harass by making phone calls demanding that she also wants dowry as adapaduchu and when the mother of the respondent No.2 herein arranged for Rs.1 lakh, the petitioner herein refused to take the amount and demanded Rs.10 lakhs. It is further alleged that when the respondent No.2 gave birth to a female child, all the petitioners harassed her and the present petitioner demanded additional dowry of Rs.4 lakhs and that she said if she fails to give so, leave her and her infant child.

05. To substantiate his case learned counsel for the petitioner relied upon a decision held by the Hon'ble

Supreme Court in **Giduthuri Kesari Kumar and others vs. State of Telangana**¹, held in para 14 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 exparte 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 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.

06. He further relied upon decision held by the

Hon'ble Apex Court in **Shaurabh Kumar Tripathi vs. Vidhi**

¹ 2015 SCC Online Hyd 18

Rawal ², wherein the Hon'ble Court held in para 38 and 39 as under-

38. Before we part with this Judgment, we must mention here that one of us (Abhay S.Oka,J) is a party to a Judgment dated 27nd October, 2016 of the Bombay High Court in Writ Petition 2473 of 2016 in which the view taken is that remedy under Section 482 of the CrPC is not available for quashing the proceedings under Section 12(1) of the DV Act, 2005. This view was found to be incorrect by a full Bench of the same High Court. As judges, we are duty-bound to correct our mistakes in properly constituted proceedings. Even for Judges, the learning process always continues.

39. To conclude, the view taken in the impugned order of the High Court that a petition under Section 482 of the CrPC for challenging the proceedings emanating from Section 12(1) of the DV Act, 2005 is not maintainable is not the correct view. We hold that High Courts can exercise power under Section 482 of CrPC (Section 528 of the BNSS) for quashing the proceedings emanating from the application under Section 12(1) of the DV Act, 2005, pending before the Court of the learned Magistrate. However, considering the object of the DV Act, 2005, the High Courts should exercise caution and circumspection when dealing with an application under Section 12(1). Normally, when dealing with an application under Section 12(1). Normally, interference under Section 482 is warranted only in the case of gross illegality or injustice.

² 2025 SCC Online SC 1158

07. Learned Assistant Public Prosecutor for the State contended that there are specific allegations against the petitioner and the truth or otherwise of the allegations levelled against her can only be known after conducting full-fledged trial before the trial Court, and hence, she prayed to dismiss the petition.

08. In this regard, it is pertinent here to extract the definitions of aggrieved person, domestic relationship and shared household which are as follows:-

Section 2 (a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

Section 2(f) “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;

Section 2(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly

or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family or which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

09. As seen from the record, no time, date and particulars with regard to the alleged harassment made by the petitioner/respondent No.5 are given and only vague and omnibus allegations are made against the petitioner. Further, as per the provisions of DV Act, which is quasi civil in nature, aggrieved person who is in domestic relationship in a shared household at some or the other point with the respondent or petitioner whomsoever, shall only come under the purview of the said Act for the purpose of domestic violence. In the instant case, the petitioner-respondent No.5, who is the sister in law of the respondent No.5 resides in America and it is nowhere established that the petitioner-respondent No.5

and respondent No.2 have ever resided in a domestic relationship and lived together in a shared house either singly or along with petitioner No.1 at any point of time. Therefore, the ingredients of the offences under DV Act are not made out. In the said circumstances, and in view of the judgments relied upon by the learned counsel for the petitioner, the proceedings against the petitioner-respondent No.5 are liable to be quashed.

10. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/respondent No.5 in D.V.C.No.18 on the file of Additional Junior Civil Judge-cum-Judicial First Class Magistrate, at Suryapet, are hereby quashed.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

JUVVADI SRIDEVI, J

Date: 02.07.2025
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