

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**



2021:TSHC:35531

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NO: 9542 OF 2021

Between:

1. Sri. Rajesh Ande, S/o. Suresh Babu Ande, Aged about. 31 Years, Occ. Designer Engg, R/o. H.No. 5-9-194, Bapuji Nagar Colony, Yaprall, Medchal - Malkajgiri District, Hyderabad
2. Sri. Suresh Babu Ande, S/o. Buchi Kanthaiah Ande, Aged about. 62 Years, Occ. Manager, R/o. H.No. 5-9-194, Bapuji Nagar Colony, Yaprall, Medchal - Malkajgiri District, Hyderabad
3. Smt. Shwetha Ande, D/o. Suresh Babu Ande, Aged about. 33 Years, Occ. House Wife, R/o. H.No. 5-9-194, Bapuji Nagar Colony, Yaprall, Medchal - Malkajgiri District, Hyderabad, presently residing at California State, U.S.A.
4. Smt. Manjula, w/o. D.Madhusudhan Rao, Aged about. 55 Years, Occ. House Wife, R/o. H.No. 5-9-194, Bapuji Nagar Colony, Yaprall, Medchal - Malkajgiri District, Hyderabad

...PETITIONERS/RESPONDENT Nos.1, 2, 4 and 5

AND

1. Smt. Sowjanya Lakshmana Murthy, W/o. Sri.Rajesh Ande, Aged about. 31 Years, Occ. Software Emp, R/ o. Plot No. 176, H. No. 5-3-134, Employees Colony, Yaprall, Medchal - Malkajgiri District, Hyderabad
2. The State of Telangana, Rep. by Public Prosecutor, High Court at Hyderabad

...RESPONDENTS/PETITIONER

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash proceedings in DVC.No.16/2020 on the file of I AJCJ cum XXI Additional Metropolitan Magistrate, Athivelli at Medchal, Ranga Reddy District.

I.A. NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in DVC.No.16/2020 on the on the file of I AJCJ cum XXI Additional Metropolitan Magistrate, Athivelli at Medchal pending against the Petitioners herein, including appearance of the Petitioners herein, pending disposal of the above Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri J. Srinivas, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.2 and of the Respondent No.1 not appeared either in person or by Advocate.

The Court made the following: ORDER



2021:TSHC:35531

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.9542 of 2021

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C., to quash the proceedings in D.V.C.No.16 of 2020, pending on the file of the I Addl. Junior Civil Judge - cum - XXI Addl. Metropolitan Magistrate, Athivelli at Medchal. The petitioners herein are respondent Nos.1, 2, 4 and 5 in the said DVC. The said DVC is filed by respondent No.2 under Section - 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'Act, 2005') against the petitioners herein seeking various reliefs.

2. Heard Sri J. Srinivas, learned counsel for the petitioners and learned Assistant Public Prosecutor. Perused the record.

3. A perusal of the application filed under Section 12 of the Act would reveal that *prima facie* the allegations are against respondent No.1 in D.V.C.No.16 of 2020 - husband of respondent No.2 herein. Petitioner No.2 is father, petitioner No.3 is married sister and petitioner No.4 is paternal aunt of petitioner No.1 herein / respondent No.1 in the D.V.C. - husband of respondent No.2 herein. Respondent No.2 herein did not seek any specific relief against petitioners herein.



4. Learned counsel for the petitioners would submit that Respondent No.2 is misusing and abusing the process of Court and he sought to quash the proceedings in the said DVC by dispensing with their presence before the trial Court.

5. On the other hand, the learned Public Prosecutor would submit that there are specific allegations made against the petitioners by respondent No.2 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.

6. In this regard, it is apt to refer to the decision rendered by a learned Single Judge of High Court of Judicature at Hyderabad 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.

¹. 2015 (2) ALD (CrI.) 470 (AP)



2021:TSHC:35531

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."

7. In view of the above discussion and the observations made by the learned Single Judge in the aforesaid decision, this Criminal Petition is disposed of, dispensing with the presence of petitioner Nos.2 to 4 herein / respondent Nos.2, 4 and 5 in D.V.C.No.16 of 2020, pending on the file of the I Addl. Junior Civil Judge - cum - XXI Addl. Metropolitan Magistrate, Athivelli at Medchal. Respondent No.1 in D.V.C. shall appear in D.V.C.

Miscellaneous Petitions, pending if any, shall stand closed.

//TRUE COPY//

SD/-M.MANJULA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The I AJCJ cum XXI Additional Metropolitan Magistrate, Athivelli at Medchal, Ranga Reddy District.
 2. One CC to Sri J. Srinivas, Advocate [OPUC]
 3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
 4. Two CD Copies
 5. One Spare Copy
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HVR

HIGH COURT



2021:TSHC:35531

DATED: 15/12/2021

ORDER

CRLP.No.9542 of 2021



DISPOSING OF THE CRIMINAL PETITION

⑦
29/12/21
A/W