

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Criminal Petition No.8112 of 2012

ORDER:

This is a Criminal Petition under Section 482 of the Code of Criminal Procedure ('the CrPC', for brevity) by the petitioners, who are the respondents 2 to 6 in D.V.C.No.18 of 2012 on the file of the learned VI Metropolitan Magistrate, Medchal, Ranga Reddy District, requesting to quash the proceedings against them in the said DV Case.

2. I have heard the submissions of the learned counsel for the petitioners, the learned counsel for the 2nd respondent/applicant in the DV Case and the learned Public Prosecutor representing the 1st respondent-State. I have perused the material record. The parties hereinafter shall be referred to as the petitioners and the 2nd respondent as arrayed in this criminal petition.

3. The introductory facts, in brief, are as follows: 'The 2nd respondent herein, by name, P. Anantha Lakshmi is the wife of P.Giri Babu, the 1st respondent in the DV Case. The present petitioners are the brothers-in-law, co-sister and sister-in-law of the 2nd respondent herein. The 2nd respondent herein had filed a case under the provisions of the Protection of Women from Domestic Violence Act, 2005 ('the Act', for brevity) seeking orders for protection under Section 18, Residence Order under Section 19, monetary relief under Section 20, custody order under Section 21 and compensation order under Section 22 of the Act. In fact, in the DV case, she had also sought prohibition of alienation of assets besides Rs.35,000/- towards monthly maintenance and a compensation of Rs.50,00,000/-. The total amount claimed by her is Rs.50,00,000/-. She had also earlier filed a case against her husband for the offence punishable under Section 498-A of the IPC and the said case is stated to be pending in the Court at Medchal.'

4. Now, the points for determination are:

1. Whether the petitioners had made out valid and sufficient grounds for quashing the proceedings against them in DVC 18 of 2012?
2. Whether the uncontroverted allegations made in the complaint of the 2nd respondent do not disclose even a *prima facie* case against the petitioners?
3. Whether the application of the 2nd respondent should not have been entertained by the learned Magistrate against the petitioners without discussing the domestic and legal relationship of the petitioners with the 2nd respondent?

5. POINTS:

5. (a) The case pleaded by the petitioners in support of the request for quashing the proceedings against them in the DV case, is as under: 'According to the case of the 2nd respondent, while she was studying B.Com 2nd year, she fell in love with the 1st respondent in the DV case. After her marriage with the 1st respondent in the DV case, they had lived together for some time. Under the lawful wedlock, she gave birth to a girl child. According to the 2nd respondent, she was subjected to harassment by her husband and that her husband made demands for additional dowry. Her husband had threatened her that he would marry a second time if she failed to bring the dowry amount. On account of the harassment, she went away to her parents' house at Hyderabad. Thus, the 2nd respondent had not made a single allegation against the present petitioners. They are living separately. However, a DV case is filed by the 2nd respondent against her husband and also the present petitioners. The learned Magistrate has taken the case on file. The marriage between the 2nd respondent and her husband is a love marriage and after their marriage in the year 2004, they both had lived separately. Except the blood relation, there is no other business or joint family relationship between the 2nd respondent on one hand and the petitioners herein on the other. All the petitioners are residents of Bheemarajuvari Street, Ongole of Prakasam District. At no point of time, the 2nd

respondent and her husband on one hand and the petitioners on the other lived under one roof. There is no 'domestic relationship' between the 2nd respondent and her husband on one hand and the petitioners on the other. At no point of time, the petitioners and the 2nd respondent had lived together in a shared household. The petitioners are facing much trouble in traveling from Ongole to Medchal, which is at a distance of more than 240 KMs. They are not involved in any offences. The continuation of DV case against them is an abuse of process of Court and law. Hence, the present petition is filed for quashing the proceedings against them.”

5. (b) At the time of hearing, the learned counsel for the petitioners had reiterated the case pleaded in the petition. Along with the petition, the copy of the household card of the 5th petitioner and his wife, who is the 2nd petitioner, is filed showing that they are residents of Bheemarajuvvari Street, Ongole of Prakasam District. Similarly, the household card of the 4th petitioner and his wife Ramanamma, i.e., the 3rd petitioner is filed showing that they are also residents of Ongole of Prakasam District. Similarly, the copy of the household card of the 1st petitioner's husband P.Rama Rao is filed showing that she is a resident of Vijayawada of Krishna District.

5. (c) The learned counsel for the 2nd respondent had forcefully contended that the petitioners herein, who are the respondents 2 to 6 in the DV case are admittedly relatives of the husband of the 2nd respondent herein and that they are related by blood or consanguinity and marriage and that in the DV case it is specifically averred that the husband of the 2nd respondent had harassed the 2nd respondent by making demands for additional dowry and that he used to abuse her in filthy language and torture her, both mentally and physically and that he had taken away forcefully her puthela thadu and had abused the 2nd respondent a number of times for not getting additional dowry and that the mediations held by the elders did not yield any results and that the husband of the 2nd respondent did not even provide food to her and used to confine her to the house by locking her in the house and that on account of the ill treatment meted out to the 2nd respondent by her husband, her health was spoiled and therefore, she was constrained to file the DV case. Thus, he has reiterated the contents in the DV case while admitting that the 5 year old

daughter is with the husband of the 2nd respondent.

5. (d) I have bestowed my attention to the facts and the submissions of the learned counsel for both the sides. Earlier, on the complaint of the 2nd respondent herein, a case in Crime No.204 of 2010 was registered by the Station House Officer, I Town Police Station, Ongole for the offences punishable under Sections 363, 365, 384, 420, 464, 465 and 498-A of the IPC against the husband of the 2nd respondent, the petitioners herein and two others, namely, the husband of the 1st petitioner- P.Sugunamma herein and one Sai Bhargav, who is the Son of the 4th petitioner herein. All the petitioners in the said crime had filed Criminal Petition No.9382 of 2010. This Court, by a common order dated 04.10.2012 made in CrI.P.Nos.9382 and 9492 of 2010 quashed the proceedings in the aforementioned crime 204 of 2010 of I Town Police Station, Ongole. It is undisputed that the 2nd respondent had much earlier gave a report to the Station House Officer, Jeedimetla on 05.08.2010 to the effect that she was subjected to harassment by all the accused and that on 25.06.2010, A1 had approached her and forcefully obtained her signature on divorce and other papers. This Court, in the said order observed that the allegations made in the subsequent report are all false and therefore, quashed the proceedings in the aforementioned crime. Therefore, as rightly contended, the present D V case is a fresh case after the proceedings against the petitioners herein and others in the earlier crime registered for the alleged offences punishable under the provisions of the IPC were quashed as per the orders of this Court. In the DV case allegations were made only against the husband who was arraigned as the 1st respondent in that case but no allegations much less specific allegations attributing any acts or omissions constituting domestic violence are made against the present petitioners.

5. (e) Coming next to the contention that the learned Magistrate ought not to have taken the case on file against the present petitioners for the reason that they have no domestic relationship and that they have never shared the household or lived together in a shared household with the 2nd respondent and her husband, it is necessary to refer to the relevant provisions. Under Section 12 of the Act, an aggrieved person may present an application to the Magistrate seeking one or more reliefs under the Act.

Section 2 (a) defines 'aggrieved person'; and, it reads as follows:

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'.

The above definition makes a reference to 'domestic relationship between the aggrieved woman and the respondent in the DV case'. The definition also makes a reference to 'domestic violence'.

'Domestic relationship' which is defined in Section 2(f) reads as under:

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'

Thus, Section 2 (f) of the Act dealing with 'domestic relationship' refers to shared household; and, 'shared household' as defined in Section 2(s) reads as follows:

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 of 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.'

Section 2 (q) defines 'respondent' as follows:

2 (q) 'respondent' means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner'

'Domestic violence' which is defined in Section 2(g) reads as under:

2 (g) 'domestic violence' has the same meaning as assigned to it in Section 3.'

Section 3 of the Act defines 'domestic violence'. The said provision reads as follows:

3. Definition of domestic violence:- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person."

Thus, Section 3 of the Act also in the introductory part makes a reference to the word 'respondent'.

5. (f) A plain and analytical reading and a harmonious consideration of all the provisions of the Act, particularly, the above definitions brings to the fore the following aspects: A person can be arraigned as a respondent in a DV case provided he is or has been in a domestic relationship with the aggrieved person. The proviso to Section 2(q) says that an aggrieved wife may also file a complaint against the relation of a husband. A plain reading of the said definition would make it manifest that any person who can be arraigned as a respondent must be a person who is or has been in domestic relationship with the aggrieved person and must have subjected the aggrieved person to any act of domestic violence. Unless the said requirements are fulfilled a person cannot be arraigned as a respondent in a DV Case. Coming to the aspect of 'domestic relationship', the domestic relationship means a relationship between two persons who either are living together or had 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. The definition of 'shared household' is already extracted supra.

5. (g) Therefore, in the well-considered view of this Court, for a person to be made a respondent in a DV case filed by an aggrieved woman, such respondent, must have a domestic relationship with the aggrieved person and must have been living or must have lived together in a shared household along with the aggrieved person 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. Therefore, when any person who is so related who has been not living or had not lived together at any point of time with the aggrieved person in a shared household and who has/had no domestic relationship cannot be made a respondent to a case filed by the woman under the provisions of the Act.

5. (h) To put it in other words, in order to arraign a person as a respondent in a DV case filed under section 12 of the Act, there must be a domestic relationship either in present or in the past between the aggrieved person and

the respondent. In any case, the domestic relationship must be in existence at the relevant time when aggrieved person has been subjected to any act of domestic violence by the respondent. It is noticeable from the provisions that a 'domestic relationship' arises between the aggrieved person and another, in case when either they are living together or have at any point of time lived together in a shared house hold and 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. The aggrieved person and the respondent need not be living together in a shared household at the time of the filing of the case/petition and it would be sufficient if they had lived together at any point of time in the past, when the alleged acts/omissions/conduct complained of had taken place.

5. (i) Coming back to the facts of the case, all the petitioners are residents of Prakasam District whereas the respondent is a resident of Hyderabad. There is nothing on record to show that the present petitioners had any domestic relationship and lived together with the 2nd respondent in a shared household at any point of time. Further after the proceedings in Crime No.204 of 2010 were quashed by this Court, by orders dated 04.10.2012, the present DV case is filed by the 2nd respondent.

6. Viewed thus, this Court finds that the petitioners have made out valid and sufficient grounds to quash the proceedings against them in D.V.C.No.18 of 2012 on the file of VI Metropolitan Magistrate, Medchal, Ranga Reddy District.

7. Accordingly, the Criminal Petition is allowed. Consequently, the proceedings against the petitioners herein in D.V.C.No.18 of 2012 on the file of VI Metropolitan Magistrate, Medchal, Ranga Reddy District are hereby quashed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SEETHARAMA MURTI, J

19th January 2015

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