

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Petition No.5665 of 2023

Order:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'CrPC'), is filed by the petitioners herein, to quash the proceedings in DVC No.7 of 2023 on the file of the learned Special Judicial Magistrate of First Class for trial of Prohibition and Excise Cases, Nellore, initiated against them by respondent No.2 herein under the provisions of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the DVC Act, 2005').

2. Today, when the matter came up for admission, it is represented by the learned counsel for the petitioners and acceded to, by the learned Assistant Public Prosecutor that the subject matter of this Criminal Petition is squarely covered by the common order passed by this Court in Criminal Petition No.599 of 2023 and batch, dated 16.03.2023, wherein this Court held thus.

"13. In view of the aforesaid reasons stated supra, it can be inferred that since the proceedings under the DVC Act, 2005 are civil in nature, the provisions of CrPC may not apply, is too general and vague. Instances would arise where an aggrieved person also would have to seek the relief in respect of all the petitions filed before the jurisdictional Magistrate, and the option left to her would only be by

way of initiating proceedings under Section 482 CrPC with certain self-imposed restrictions. In view of the principle laid down in *Nandkishior Pralhad Vyawahare v. Mangala* case (3 supra), this Court is of the opinion that inherent power of the High Court can be invoked subject to self-imposed restrictions, including availability of an efficacious alternative remedy under Section 29 of the DVC Act, 2005, so as to adhere to redressal of their grievances arising out of the orders passed in a proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under Section 31 of the DVC Act, 2005.

14. The present Criminal Petitions are filed seeking to quash the proceedings initiated against the petitioners under the provisions of the DVC Act, 2005. Though various contentions have been raised in the petitions, the only grievance of the petitioners is that their presence may be dispensed with, in the proceedings before the Court below. Having considered the submissions of the learned counsel, this Court dispenses with the presence of the petitioners, who are relatives of husband, except husband, before the Court below, except on those occasions when the learned Magistrate feels that their presence is necessary.

15. With the aforesaid observations and directions, the Criminal Petitions are disposed of. Miscellaneous petitions, if any pending, in the Criminal Petitions, shall stand closed."

3. Hence, following the said order passed by this Court in Criminal Petition No.599 of 2023 and batch, dated 16.03.2023 and for the reasons mentioned therein, this Criminal Petition is disposed of dispensing with the presence of the petitioners herein only before the Court below, except on those occasions when the learned Magistrate feels that their presence is necessary.

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

K. SREENIVASA REDDY, J.

Date:04.08.2023

Nsr

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