
(2013) 06 AP CK 0093

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 7758 of 2009

Kuppili Sridhar Kumar and Others

APPELLANT

Vs

Kuppili Siva Santoshi and Another

RESPONDENT

Date of Decision : 28-06-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Protection of Women From Domestic Violence Act, 2005 — Section 12, 19, 20, 22, 29

Citation : (2013) 2 ALT(Cri) 346

Hon'ble Judges : C. Praveen Kumar, J

Bench : Single Bench

Advocate : T.M.K. Chaitanya, for the Appellant;

Judgement

C. Praveen Kumar, J.—This petition is filed by the petitioners/respondents 1 to 3 u/s 482 Cr.P.C. seeking quashing of proceedings in D.V.C. No. 8 of 2009 on the file of the Chief Metropolitan Magistrate at Visakhapatnam. A petition u/s 12 of the Protection of Women From Domestic Violence Act, 2005 (for short, "the Act") came to be filed against the petitioners, who are the husband, brother-in-law and sister-in-law claiming reliefs under Sections 19, 20 and 22 of the Act. For better appreciation of facts, the parties will hereinafter be referred to as arrayed in D.V.C.

2. The complainant filed a petition u/s 12 of the Act alleging that her marriage with the 1st respondent took place on 24-4-2008 at Visakhapatnam. At the time of marriage, her parents presented Rs. 2,60,000/- as dowry, Rs. 40,000/- towards Adapaduchu lanchanams, Rs. 1,00,000/- worth sare samans, four tulas gold ornaments, 16 tulas of silver ornaments and also spent Rs. 3,00,000/- towards marriage expenses. The complainant joined the 1st respondent, who was living along with the respondents 2 and 3 at Door No. 43-17/38/4, Visakhapatnam. Though the complainant alleges various acts of harassment against her husband, nothing specific is attributed against the respondents 2 and 3, who are the brother and sister-in-law of the 1st respondent. A reading of the

complaint would only disclose that the respondents 2 and 3 used to instigate the 1st respondent to harass the complainant. No specific instances of harassment are alleged against the respondents 2 and 3 except stating that the respondents 1 to 5 used to come to the house of the complainant and demand her mother to arrange additional dowry of Rs. 3,00,000/-. It is alleged that the respondents demanded money for taking the complainant back into the matrimonial home in a mediation, which was held before the elders. Basing on these allegations, the present complaint came to be filed seeking reliefs under Sections 29, 20 and 22 of the Act.

3. One of the main ingredients which has to be prima facie established before claiming reliefs under the provisions of the said Act is that there should be domestic violence as contemplated u/s 3 of the Act. A reading of the complaint would disclose that no specific instance of domestic violence as contemplated u/s 3 of the Act is attributed except making an omnibus allegation that the respondents 1 to 5 went to the house of the complainant and demanded additional dowry apart from alleging that the respondents 2 and 3 were instigating the 1st respondent to harass the complainant. In *Geeta Mehrotra and Another Vs. State of U.P. and Another*, the Apex Court has categorically held that "casual reference of the names of the family members in a matrimonial dispute without an allegation of active involvement in the matter would not justify in taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute". Similar view was expressed by the Apex Court in a matter under the provisions of the Act in *Ashish Dixit and Others Vs. State of U.P. and Another*,

4. The reliefs which are sought to be claimed i.e., a sum of Rs. 8,00,000/- towards marriage expenses, Rs. 15,000/- towards maintenance and Rs. 5,000/- towards shelter can only be claimed against the husband or parents of the husband, but definitely not against the respondents 2 and 3.

5. In that view of the matter, this Court is of the opinion that continuation of proceedings against the respondents 2 and 3 would be abuse of process of Court. However, as stated earlier specific instances of harassment are alleged against the 1st respondent, who is the husband of the complainant and the reliefs sought for can be claimed only against him.

6. Accordingly, the Criminal Petition is allowed in part. The proceedings against the respondents 2 and 3 (petitioners 2 and 3) in D.V.C. No. 8 of 2009 on the file of the Chief Metropolitan Magistrate at Visakhapatnam are hereby quashed. Insofar as the 1st respondent is concerned, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this criminal petition shall stand closed.