
(2012) 06 AP CK 0025

In the Andhra Pradesh High Court

Case No : Transfer Criminal Petition. 122 of 2012

T. Venkata Sateesh

APPELLANT

Vs

Smt. Dasari Suhasini and State of A.P.

RESPONDENT

Date of Decision : 07-06-2012

Acts Referred:

Hindu Marriage Act, 1955 — Section 13

Protection of Women From Domestic Violence Act, 2005 — Section 18, 19, 20, 21, 22

Citation : (2012) 2 ALD(Cri) 309 : (2012) 3 ALT(Cri) 199

Hon'ble Judges : Samudrala Govindarajulu, J

Bench : Single Bench

Advocate : S. Vani, for the Appellant;

Final Decision : Dismissed

Judgement

Samudrala Govindarajulu

1. The petitioner who is husband seeks transfer of D.V.C.No.86 of 2011 from IV Metropolitan Magistrate Court, Hyderabad to the Family Court, Secunderabad where O.P.No.611 of 2012 is pending for divorce. The petitioner's counsel placed reliance on Section 26 of the Protection of Women from Domestic Violence Act, 2005 (in short "the Act") as enabling provision for the relief claimed herein. Section 26 of the Act reads as follows:

26. Relief in other suits and legal proceedings: - (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

2. O.P.No.611 of 2012 was filed by the husband against the wife for divorce u/s 13 of the Hindu Marriage Act whereas D.V.C.No.86 of 2011 was filed by the wife, as aggrieved person, against the husband and other family members of the husband for the reliefs u/s 18, 19, 20, 21 and 22 of the Act. There is no legal proceeding filed by the wife/aggrieved person in Family Court, for the wife to invoke Section 26 of the Act. Firstly, proceeding in the Family Court is filed by the husband against the aggrieved person/wife. Secondly, all the other parties in D.V.C.No.86 of 2011 are not parties before this Court in this transfer petition. Thirdly, Section 26 enables an aggrieved person/wife or children to claim reliefs under Sections 18, 19, 20, 21 and 22 of the Act as additional relief and not as independent relief in any proceeding in civil Court or Family Court or criminal Court in case those proceedings are affecting the aggrieved person. In that view of the matter, Section 26 of the act does not come to the rescue of the petitioner in this transfer petition.

3. The question of getting conflicting decisions may not arise between the two Courts in the two pending proceedings as scope of decision in a divorce petition is entirely different from the scope of a domestic violence case under the Act before the Magistrate. There are no grounds for transfer of domestic violence case from criminal Courts Hyderabad to Family Court, Secunderabad. Hence, the Transfer Criminal Petition is dismissed.