

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT : HYDERABAD
(THURSDAY 2nd DAY OF AUGUST, 2007)
PRESENT
THE HON'BLE SRI JUSTICE K.C. BHANU
CRL. P. NO : 3714 of 2007
BETWEEN :

1. U.U. Thimmanna, Slo U. U. Ayyanna
2. U.U. Sankaramma, W/o U. U. Thimmanna
3. U.U. Sreenivasulu, Slo U. U. Thimmanna
4. U.U. Paramesh, Slo U. U. Thimmanna
5. U.U.Ramesh, Slo U. U. Thimmanna PETITIONERS

AND

1. Smt. U.U. Sandhya, D/o U.M. Venkateswarlu
2. The State of Andhra Pradesh, rep. by its Public Prosecutor,
3. High Court of A.P., at Hyderabad. RESPONDENTS

Petition under Section 482 of the Cr1.P.C praying that in the circumstances stated in the quash proceedings filed therewith, the High Court will be pleased to quash the proceedings in D.V.C.No. 1 of 2007 on the file of the Judicial Magistrate of First Class, Yemmiganur, Kurnool District. The Petition coming on for hearing, upon perusing the Petition and the quash proceedings filed in support thereof and upon hearing the arguments of Sri. C.PRAVEEN KUMAR, Advocate for the Petitioner and of Smt. P. Rajeswari, Advocate for the Respondent No.1 and of the Public Prosecutor, on behalf of State.

The Court made the following:

ORDER

THE HON'BLE SRI JUSTICE K . C . BHANU
CRIMINAL PETITION NO.3714 OF 2007.

ORDER

This Criminal Petition is filed by the petitioners under Section 482 Cr.P.C. to quash the proceedings in DVC No.1 of 2007 on the file of the Judicial Magistrate of I Class, Yemrniganur, Kurnool District.

Heard both the counsels.

Admittedly, husband of the complainant died on 14-06-2004 and since then the de facto complainant is not residing with the petitioners.

The shared household is defined under Section 2 (s) of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act'), which reads as follows:

"'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."

Domestic relationship is defined under Section 2 (E) of the Act, which reads as follows:

"'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."

On the face of the allegations in the complaint, the de facto complainant is not residing with the petitioners. She is residing in House No.2361, Near M.G. Petrol, Yemmiganur, whereas petitioners 1 and 2 have been residing in House No. 3/31, Uppara street, Yemmiganur, 3rd petitioner is residing in Mahaboobnagar, 4th petitioner is residing at H.No.S/2267, Laxmipeta, Yemmiganur and 5th petitioner is residing at: H. N o: 3/31, Tippata Street, Yemmiganur.

Admittedly, the de facto complainant filed a suit in O.S. No.111 of 2005, which is pending. She also filed a case in C.C.No.94 of 2005 under Section 498-A IPC, which is pending trial before the Judl. Magistrate of 1st Class, Yemmiganur. The domestic incident report does not disclose any of the acts of violence that were reported by the complainant after 26-10-2006. There is no dispute that the Act came into effect when the Central Government appoints 26-10-2006 as the date on which the Act was came into force.

For acts of violence, certain penal provisions are incorporated.

Therefore,

"It is a fundamental principle of law that any penal provision has no retrospective operation but only prospective. There is no allegation either in the report or in the statement or in the complaint on the 1st Respondent with regards to the acts of domestic violence that took place on or after 26-10-2006. Therefore continuation of proceedings against the petitioners is nothing but abuse of process of court".

Accordingly, the Criminal Petition is allowed quashing the proceedings in DVC No.1 of 2007 on the file of the Judicial Magistrate of I Class, Yemrniganur, Kurnool District.

Sd/-N.MURALIDHAR RAO
ASSISTANT REGISTRAR
I/ TRUE COPY N
SECTION OFFICER