

**HONOURABLE SRI JUSTICE G.KRISHNA MOHAN REDDY**

**CRL.P.No.628 of 2009**

**ORDER:**

This Criminal Petition is filed under Section 482 Cr.P.C. to quash proceedings in D.V.C.No.4 of 2008 on the basis of complaint given by the 2<sup>nd</sup> respondent herein (complainant in the D.V.C.) (for short 'the complainant') on the file of the Court of Judicial First Class Magistrate, Suryapet, with the prayers viz., a) to pass protection orders under Section 18, b) to pass residence orders under Section 19, c) to direct the petitioner herein (respondent in the D.V.C.) (for short 'the respondent') to pay monthly relief under Section 20 of the Act and also d) to direct the respondent to grant compensation or damages under Section 22 of the Women from Domestic Violence Act, 2005 (for brevity 'the Act'), on the ground that the respondent is falsely implicated in the case and there are no merits in the case and the allegations made in the complaint were also made in C.C.No.157 of 2001 filed by the complainant earlier against the respondent, but they were not proved.

2. The point for consideration is whether the sufficient grounds are there to uphold the claim of the accused.

3. It is the contention of the learned counsel for the respondent that even according to the complainant, in her affidavit, they lived together only up to 2002 and, the petitioner filed O.P.No.649 of 2004 on the file of the Court of the Judge, Family Court, Hyderabad and obtained divorce on 24-10-2006 against her, against which, she preferred

F.C.A.No.151 of 2006 before the Hon'ble High Court and against the orders in M.C.No.1 of 2004, he preferred Crl.R.C.(S.R.).No.17963 of 2008 before this court which have been pending. Further, the Domestic Violence Act came into force with effect from 13-09-2005 and the respondent has not been living with the complainant since the year of 2002 onwards and as such the allegations made against the respondent under the Act are not tenable and, therefore, in the facts and circumstances of the case, the provisions of the Act have no application at all. Further, when in C.C.No.157 of 2001 filed under Section 498-A IPC with the same allegations on the file of the Court of Judicial Magistrate of First Class, ended in the acquittal of the respondent, no cognisance of the same allegations can be taken once again in another case.

4. Learned Additional Public Prosecutor has opposed the Criminal Petition.

5. In fact as per the complaint, they lived together up to the year 2002 only. It is necessary to consider the relevant provisions of the Act.

**Section 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 any 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. Explanation I.- For the purposes of this section,-

(i) " physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) " sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) " verbal and emotional abuse" includes-

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) " economic abuse" includes-

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

### Section 3 (a) (f) (s) of the Act:

(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subject to

any act of domestic violence by the respondent.

(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;

(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.

6. The Domestic Violence Act came into force on 13-09-2005. It is only prospective in nature. When admittedly they did not live together subsequent to the coming into force of the Act, the question of application of the relevant provisions of the Act does not arise at all.

7. For the reasons stated above, it appears that false complainant was filed under the relevant provisions of the Domestic Violence Act which therefore is liable to be quashed.

8. In the result, the Criminal Petition is allowed quashing the proceedings in D.V.C.No.4 of 2008 on the file of the Court of the Judicial First Class Magistrate, Suryapet.

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