

(2010) 07 AP CK 0015

Andhra Pradesh High Court

Case No: Criminal Petition No. 963 of 2008

Valisetti Chandra Rekha and Kota
Satyanarayana Rao

APPELLANT

Vs

The State of A.P. and Kota
Kamala Devi

RESPONDENT

Date of Decision: July 8, 2010

Acts Referred:

- Protection of Women From Domestic Violence Act, 2005 - Section 18, 19, 20, 31, 31(1)

Citation: (2010) 2 ALD(Cri) 689

Hon'ble Judges: A. Gopal Reddy, J

Bench: Single Bench

Advocate: K. Srinivas, for the Appellant; Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A. Gopal Reddy, J.

Petitioners, who are respondent Nos. 3 and 5 in the Domestic Violence Case No. 25 of 2007 on the file of VI Additional Munsif Magistrate, Guntur for the offences punishable under Sections 18, 19 and 20 of the Protection of Women from Domestic Violence Act, 2005 (for brevity, "the Act"), filed this petition to quash the proceedings initiated against them.

2. The petitioners cannot be punished for any offence under the Act. Only on violating the Protection Orders passed u/s 18 of the Act and Residence Orders u/s 19 of the Act, the Magistrate can proceed u/s 31 of the Act and can summon the violators to show cause why penalty for breach of the protection should not be imposed on them. Further as per Section 32 of the Act, the offence under Sub-section (1) of Section 31 of the Act shall be a cognisable and non-bailable one. Before passing any orders, summons have to be served on the respondents and

they can either appear before the court or can be represented by an Advocate for passing appropriate orders u/s 18 or 19 of the Act. In view of the same, issuing of summons and non-bailable warrants for their presence, is not at all warranted, at the stage of passing of the protection orders or residence orders by the concerned Magistrate. On issuing such Non-bailable warrants on the presumption that they have committed the offence under the Act, the petitioners approached this Court for quashment of the proceedings.

3. Since the resident orders can be passed against all the respondents, preventing them from interfering with the possession of the aggrieved person in the Domestic Violence Case, mere impleadment of the petitioners in the Domestic Violence Case, does not give rise to a criminal offence to quash the proceedings at the initial stage.

4. The Criminal Petition is accordingly dismissed. However, the learned Magistrate is directed to proceed with the matter without taking coercive steps for the appearance of the petitioners. If the petitioners chose not to represent in the matter, ex parte orders can be passed and only if they violate the orders, they can be proceeded u/s 31 of the Act as referred above.