

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.29050 of 2022

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. S. Chalapathi Rao, learned counsel for the petitioner.

Ms. Archana, learned Standing counsel for respondent No.2.

2. In this writ petition, the petitioner has assailed the validity of notice dated 07.12.2021 in H.R.C.No.6018 of 2021 by which the Telangana State Human Rights Commission, Hyderabad (hereinafter referred to as "the Commission") has asked the petitioner to appear in-person before it on 30.12.2021.

3. The facts giving rise to filing of this writ petition briefly stated are that the marriage between the petitioner and respondent No.2 was solemnized on 23.12.2020 as per the Hindu rites and they were unable to lead happy married life. Respondent No.2, who is the wife of the petitioner, filed the

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complaint against the petitioner under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act, which is pending before the XV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

4. It is not in dispute that respondent No.2 has filed a petition before the Protection Officer under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the Act, 2005”) and the same is pending. The reliefs claimed by respondent No.2 in the petition filed before the Protection Officer read as under:

“1. I require protection from my husband and my in-laws under Section 18 of DVC Act.

2. I require presently at least Rs.45,000/- per month for my maintenance and medical checkups etc.

3. I require my husband and my in-laws to return, all the gold (45-50 tulas) given to me and the gold given to my husband, my mother-in-law, sister-in-law along with cash, diamonds (necklace, earrings, bangles), silver, household utensils plus electronics given to them during the wedding and after the wedding etc., and the additional dowry Rs.10,00,000/- as shown above, and also to return the sum of Rs.85,00,000/- which is incurred by my parents from engagement to marriage.

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4. I require compensation of Rs.50,00,000/- (50 lakh Rs) under section 22 for committing mental, physical, sexual and emotional harassment, for false allegations as abusing my character etc.

5. I kindly require the Honourable Court to grant me residential orders as share in the share household under Section 19.

6. Also I request to pass order (s) as early as possible since I do not have any financial support, as I am a housewife and my delivery due date is swiftly approaching (December 29th 2021) as prayed above may be granted as the earliest.”

5. Thereafter, respondent No.2 – wife filed a complaint before the Commission in which same reliefs, which were sought in DVC.No.14 of 2022, were sought.

6. Learned counsel for the petitioner submitted that the Commission has no jurisdiction to deal with the complaint relating to domestic violence.

7. On the other hand, learned Standing counsel for the Commission submits that any domestic violence amounts to violation of human rights and therefore, the Commission has jurisdiction to deal with the complaint.

8. We have considered the rival submissions made on both sides and perused the record.

9. Section 12 of the Protection of Human Rights Act, 1993 reads as under:

“12. Functions of the Commission.—The Commission shall perform all or any of the following functions, namely:—

(a) inquire, *suo motu* or on a petition presented to it by a victim or any person or on a direction or order of any court on his behalf, into complaint of—

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

(f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

(g) undertake and promote research in the field of human rights;

(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) encourage the efforts of non-governmental organization and institutions working in the field of human rights;

(j) such other functions as it may consider necessary for the promotion of human rights.”

10. The scope and ambit of the aforesaid provision was interpreted by the Hon’ble Supreme Court in **G.Manikyamma v. Roudri Cooperative Housing Society Limited**¹.

11. In the instant case, admittedly, respondent No.2 has invoked the provisions of the Act, 2005 and thereafter for the same reliefs, she has approached the Commission. Even assuming that the Commission has jurisdiction to deal with the complaint, in such a case also, respondent No.2 cannot be permitted to prosecute two petitions before different forums.

12. Therefore, in the peculiar facts of the case, it is not necessary for us to examine the issue with regard to the

¹ (2014) 15 SCC 197

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jurisdiction of the Commission to deal with the complaint pertaining to domestic violence. The same is kept open to be decided in appropriate proceedings.

13. For the aforementioned reasons, notice dated 07.12.2021 issued by the Commission in H.R.C.No.6018 of 2021 is quashed.

14. In the result, the writ petition is allowed.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

ALOK ARADHE, CJ

T. VINOD KUMAR, J

Date: 14.08.2023
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