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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.327 of 2021

And

Crl.M.P.No. 166 of 2021

Christopher Edison Sunder Singh
Son of Samuel Gnaniah
Door No.10, G.K.S.Avenue
Coimbatore – 641 046.

... Petitioner/Respondent/Petitioner/Respondent

Vs

Anne Christopher Gnaniah
Daughter of Dhanaraj
Door No.30, 2nd Street,
Tatabad, Sivanandha Colony
Coimbatore.

... Respondent/Petitioner/Respondent/Petitioner

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 07.07.2020 passed in CRP No. 30 of 2019 on the file of 1st Additional District and Session Judge at Coimbatore in reversing the order dated 19.08.2019 in C.M.P.No. 1852 of 2019 in DVA No.20 of 2018 on the file of Judicial Magistrate No.2, Coimbatore.

For Petitioner : Mr. K.Myilsamy

For Respondent : Mr. B.Kumarasamy



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ORDER

This Petition has been filed under Section 482 Cr.P.C., challenging an order passed in a revision by the Additional District and Sessions Judge at Coimbaore, dated 07.07.2020.

2. The respondent had filed Domestic Violence Act proceedings before the learned Judicial Magistrate No.II, Coimbatore in DVA No. 20 of 2018. In the said proceedings, the petitioner filed an application under Section 203 for recalling the order of summons issued to the petitioner. In the said petition, the learned Judicial Magistrate passed an order dismissing the Domestic Violence Act proceedings on the ground that it was a gross abuse of process of Court. The learned Magistrate had also recorded that the petitioner and the respondent were living separately since 11.03.2011 and dismissed the DV Act proceedings against the petitioner herein.

3. The said proceedings were challenged by the respondent herein before the learned Additional District and Sessions Judge, Coimbatore. The learned Sessions Judge found that the procedure adopted by the learned Magistrate was not in accordance with law and further observed that merely because they are living separately, it cannot be said that the provisions of the Act are



not applicable. Challenging the said order, the petitioner is before this Court under Section 482 of Cr.P.C.

4. The larger Bench of this Court reported in *Arul Daniel Vs. Suganya* (2022 SCC Online mad 5435], has held that the petition under Section 482 Cr.P.C., is not maintainable in respect of proceedings under the Domestic Violence Act and the aggrieved party can only file a revision under Article 227 of the Constitution of India. In view of the said judgement of this Court, this Court is not inclined to entertain the petition under Section 482 Cr.P.C. It is open to the petitioner to pursue other remedies available to him in law.

5. In view of the above, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

21.03.2023

vsg

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

SUNDER MOHAN. J.



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vsg

To

1. 1st Additional District and Session Court, Coimbatore.
2. Judicial Magistrate No.2, Coimbatore.

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