

272 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-295-2023

Date of Decision:25.05.2023

SYED SALMAN

..... Petitioner

Versus

RUBINA TABASOOM

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Gulab Nabi Malik, Advocate for the petitioner.

Mr. H.S. Dhindsa, Advocate for the respondent.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through the instant petition is seeking setting aside of order dated 25.11.2022 whereby Additional Sessions Judge, Ludhiana has dismissed appeal of the petitioner and upheld order dated 20.3.2019 passed by JMIC, Ludhiana whereby respondent was awarded maintenance of Rs. 10,000/- per month and Rs. 5000/- per month towards rent in terms of Section 12 of Protection of Women from Domestic Violence Act, 2005 (for short 'DV Act') read with other provisions of DV the Act.

2. Mr. H.S. Dhindsa, Advocate has put in appearance on behalf of the respondent and filed his power of attorney. The same is taken on record.

3. This Court in *Jaspal Kaur alias Pinki and others vs. State of Punjab and another, CRM-M- 19553 of 2023 decided on 24.04.2023*, relying upon judgments of Hon'ble Supreme Court in *Kamatchi vs. Lakshmi Narayan 2022 SCC online SC 446* and *Kunappareddy vs. Kunappareddy Swarna Kumari (2016) 11 SCC 774* and Full Bench of Madras High Court in *Arul Daniel and others vs. Suganya 2022 SCC online Mad 5435* has held:

i) Proceedings under Section 12 of DV Act are civil in nature.

ii) An aggrieved person has right to move an

application before Magistrate seeking recalling of notice issued under Section 13 of DV Act or deletion of his/her name from the array of respondents;

iii) Petition under Section 482 Cr.P.C. is not maintainable against petition under Section 12 or notice under Section 13 of DV Act;

iv) An order passed by Magistrate is an appealable order under Section 29 of DV Act;

v) No revision under Cr.P.C. is maintainable against order passed by Sessions Court as Appellate Court.

4. In view of order dated 24.4.2023 passed by this Court in CRM-M-19553 of 2023, present petition is not maintainable and accordingly disposed of with liberty to the petitioner to avail remedy as permissible by law.

5. Disposed of with liberty as aforesaid.

6. Learned counsel for the petitioner submits that operation of impugned order was stayed vide order dated 08.02.2023 and it may be further stayed for three weeks from today so that petitioner may avail remedy as permissible by law.

7. Operation of the impugned order shall remain stayed for three weeks from today.

(JAGMOHAN BANSAL)
JUDGE

25.05.2023
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>