

**201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-5373-2019

Date of Decision:03.05.2023

DARSHNA DEVI

..... Petitioner

Versus

SATISH

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Mukul Khatri, Advocate for the petitioner.

Mr. Sushil Jain, Advocate for the respondent.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking setting aside of order dated 02.11.2018 whereby Additional Sessions Judge, Sonipat has set aside judgment dated 18.07.2016 passed by Sub Divisional Judicial Magistrate, Gohana. The petitioner had preferred petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 before Magistrate. An order of maintenance came to be passed by Magistrate. An appeal came to be filed before Sessions Court which came up for consideration before learned Additional Sessions Judge, Sonipat who set aside order passed by SDJM.

2. 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.

3. 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.

4. Disposed of with liberty as aforesaid.

(JAGMOHAN BANSAL)
JUDGE

03.05.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No