

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

230

CRR-836-2019 (O&M)

Date of Decision : 04.05.2023

Mahabir

..... Petitioner

Versus

Sushila and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.J.S.Dahiya, Advocate
for the petitioner.

Mr.J.S.Saneta, Advocate
for respondent No.1.

JAGMOHAN BANSAL, J. (Oral)

1. The respondents herein preferred an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 before Magistrate seeking different reliefs. The Magistrate passed interim order dated 29.03.2017.

2. The petitioner herein preferred an appeal before Sessions Court which vide impugned order dated 06.02.2019 dismissed the appeal.

3. The petitioner through instant petition under Section 401 Cr.P.C. is seeking quashing of order passed by Courts below.

4. 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.

5. 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.

6. Learned counsel for the petitioner prays that stay was operating in his favour since 05.04.2019, thus, he may be granted 15 days time to avail remedies as permissible by law.

7. In view of the fact that there was stay in favour of the petitioner since 2019, the impugned order shall remain suspended for a fortnight from today.

8. Disposed of with liberty as aforesaid.

(JAGMOHAN BANSAL)
JUDGE

04.05.2023
anju

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