

In the High Court of Punjab and Haryana at Chandigarh

2023 : PHHC : 069518

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CRR1246 of 2023

Date of Decision: 15.05.2023

Paramjit Kaur

---Petitioner

versus

Tejinder Kaur

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Nidhi Bansal, Advocate
for the petitioner

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through the instant petition under Section 401 Cr.P.C. is seeking setting aside of order dated 09.03.2023 whereby Additional Sessions Judge, Ludhiana has dismissed the appeal against judgment dated 03.04.2019 passed by SDJM, Khanna.

2. The appeal was filed in terms of Section 29 of Protection of Women from Domestic Violence Act, 2005 (for short "DV Act"). The petitioner had filed application under Sections 12, 18, 19, 20, 22 and 23 of DV Act before the Magistrate.

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*

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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.

(JAGMOHAN BANSAL)
JUDGE

15.05.2023

paramjit

Whether speaking/reasoned : Yes

Whether reportable : Yes/No