

In the High Court of Punjab and Haryana at Chandigarh

106-1

2023 : PHHC : 064765

CRR-1795 of 2018 (O&M)

Date of Decision: 05.05.2023

Pankaj Jain

---Petitioner

versus

Priya Jain

---Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Deepinder Singh, Advocate,
for the petitioner

Mr. Yogesh Goel, Advocate,
for the respondent

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through the instant petition is seeking setting aside of judgment dated 29.03.2016 whereby Judicial Magistrate Ist Class, Gurgaon, in terms of Section 12 of Protection of Women from Domestic Violence Act, 2005 awarded maintenance which was enhanced by appellate court vide judgment dated 27.3.2018 in the appeal filed by the respondent herein.

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 disposed of with liberty to the petitioner to avail remedy as permissible by law.

4. Disposed of with liberty as aforesaid.

5. Learned counsel for the petitioner submits that operation of impugned order was stayed by this Court vide order dated 24.05.2018 and stay is still operative, thus, operation of impugned order may be stayed for two weeks so that petitioner may avail remedy as permissible by law.

6. Operation of the impugned order shall remain stayed for

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two weeks from today.

(JAGMOHAN BANSAL)
JUDGE

05.05.2023
paramjit

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No