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C.R.P.(PD).No.1220 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1220 of 2024

and

C.M.P.Nos.6394, 6397 and 6399 of 2024

S.Sugumaran

... Petitioner

VS

R.Kayathiri

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the entire proceedings pertaining to the case filed in DVC No.127 of 2021 on the file of the Judicial Magistrate Court No.I, Puducherry.

For Petitioner : Mr.K.M.Subramanian



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ORDER

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The Civil Revision Petition is filed challenging the proceedings initiated by the respondent under Domestic Violence Act, 2005 in D.V.C.No.127 of 2021 on the file of the Judicial Magistrate-I, Puducherry.

2. It is the case of the petitioner that allegation made by the respondent in her complaint leading domestic violence case is false and the same is abuse of process of Court.

3. The Full Bench of this Court in ***Arul Daniel vs. Suganya*** reported in ***(2022) 4 MLJ (Crl) 561***, while considering the remedy available to the aggrieved person in domestic violence cases against whom proceedings were initiated observed as follows:-

“76. vii. As there is no issuance of process as contemplated under Section 204, Cr.P.C in a proceeding under the D.V Act, the principle laid down in Adalat Prasad v Rooplal Jindal (2004 7 SCC 338) that a process, under Section 204, Cr.P.C, once issued cannot be reviewed or recalled, will not apply to a proceeding under the D.V Act. Consequently, it would



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be open to an aggrieved respondent(s) to approach the Magistrate and raise the issue of maintainability and other preliminary issues. Issues like the existence of a shared household/domestic relationship etc., which form the jurisdictional basis for entertaining an application under Section 12, can be determined as a preliminary issue, in appropriate cases. Any person aggrieved by such an order may also take recourse to an appeal under Section 29 of the D.V Act for effective redress (See V.K Vijayalekshmi Amma v Bindu. V., (2010) 87 AIC 367). This would stem the deluge of petitions challenging the maintainability of an application under Section 12 of the D.V Act, at the threshold before this Court under Article 227 of the Constitution.”

4. In view of the law settled by the Full Bench of this Court in ***Arul Daniel vs. Suganya*** reported in ***(2022) 4 MLJ (Crl) 561***, the petitioner is at liberty to approach the concerned Magistrate raising all jurisdictional and maintainability issues.

5. The learned counsel for the petitioner submitted that the personal



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appearance may be dispensed with. It is open to the petitioner to file appropriate application seeking dispense with of his personal appearance. If any such application is filed, the same shall be disposed of in accordance with law.

6. With the above liberty, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petitions are closed.

28.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

WEB COPY The Judicial Magistrate Court No.I,
Puducherry.



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S.SOUNTHAR, J.

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