



C.R.P.No.1092 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1092 of 2024
and
C.M.P.No.5676 & 5681 of 2024

1.Sivagami
2.Jayanthi
3.Annamalai

... Petitioners

Vs.

1.Sasikala
2.J.Bharathithasan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to quash the proceedings initiated under the Domestic Violence Act in D.V.C.No.115 of 2023 which is pending on the file of the Judicial Magistrate-III at Puducherry.

For Petitioner

:Mr.C.Veera Raghavan



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ORDER

The Civil Revision Petition is filed challenging the proceedings initiated under Domestic Violence Act in DVC.No.115 of 2023.

2. The 1st respondent herein, who is the daughter in law of 1st petitioner, filed domestic violence case against the petitioners in D.V.C.No.115 of 2023. The 1st petitioner is the mother-in-law, 2nd petitioner is the sister-in-law and the 3rd petitioner is the husband of 2nd petitioner. It is the case of the petitioners that the petitioners are residing at Cuddalore and Puducherry. The learned counsel for the petitioner submits that petitioners are residing away from the matrimonial home and they are no way connected with the domestic violence against the 1st respondent.

3. The Full Bench of this Court in the case of *Arul Daniel vs. Suganya* reported in **(2022) 4 MLJ (Crl) 561**, while considering the maintainability of the Civil Revision Petition under Article 227 of Constitution of India challenging the initiation of proceedings under Domestic Violence Act observed as follows:-



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“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 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 setted by the Full Bench of this Court in *Arul Daniel vs. Suganya* reported in (2022) 4 MLJ (Crl) 561, the Civil Revision Petition is dismissed with liberty to the petitioners to approach the very same Magistrate and raise all their objections as to the maintainability of the



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complaint as well as other jurisdictional issues.

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5. The learned counsel for the petitioners submitted that taking into consideration the facts and circumstances of the case, the personal appearance of the petitioners may be dispensed with before the Magistrate Court. It is open to the petitioners to file appropriate application before the concerned Magistrate seeking dispense with of their presence. If any such application application is filed by the petitioners, the same shall be considered and orders shall be passed in accordance with law by the concerned Magistrate.

6. With these observations, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

25.03.2024

Index : Yes / No

Internet : Yes / No

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The Judicial Magistrate-III , Puducherry.

S.SOUNTHAR , J.



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