



C.R.P.(PD).No.1077 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1077 of 2024

and

C.M.P.No.5610 of 2024

1.Kiruthika

2.Govindammal

... Petitioners

VS

S.Vasumathi

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to quash the complaint filed under Sections 12 and 18 (a), 20 and 22 of the Domestic Violence Act against the petitioners in D.V.A.No.13 of 2023 on the file of the Judicial Magistrate No.I, Pollachi and allow the CRP.

For Petitioners : Mr.S.Prabhu

ORDER



C.R.P.(PD).No.1077 of 2024

The Civil Revision Petition is filed challenging the initiation of proceedings under Domestic Violence Act by the respondent.

2. The respondent herein filed domestic violence case in D.V.A.No.13 of 2023 against the petitioners and one Soundararaj.

3. The learned counsel appearing for the petitioners submitted that the petitioners are no way connected with any domestic violence and hence, the complaint made by the respondent under the Domestic Violence Act is not at all maintainable against the petitioners.

4. 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,



WEB COPY

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.”

5. 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 petitioners are at liberty to approach the concerned Magistrate and raise the question of maintainability and other jurisdictional issues. The petitioners are also at liberty to file an application before the concerned Magistrate seeking exemption from personal appearance and the same shall be considered on



C.R.P.(PD).No.1077 of 2024

merits and in accordance with law.

WEB COPY

6. With this liberty, the Civil Revision Petition is dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

22.03.2024

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



C.R.P.(PD).No.1077 of 2024

To

WEB COPY
The Judicial Magistrate No.I,
Pollachi.



WEB COPY



C.R.P.(PD).No.1077 of 2024

S.SOUNTHAR, J.

dm

C.R.P.(PD).No.1077 of 2024

22.03.2024