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C.R.P.No.969 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.969 of 2024
and
C.M.P.No.4939 & 4943 of 2024

1.P.Kannammal
2.P.Palanisamy

... Petitioners

Vs.

1.Monisha Jagadeeswaran
2.Sugumar
3.Gomathi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to strike off the petition in D.V.C.No.22 of 2023 on the file of the learned Judicial Magistrate, Additional Mahila Court, Erode allowing the present civil revision petition in respect of the petitioners herein.

For Petitioner

: M/s.N.Palanikumar
for P.Kannan Kumar

ORDER

The Civil Revision Petition is filed seeking to strike of the complaint in Domestic Violence Case in D.V.C.No.22 of 2023.



2. It is the case of the petitioners that the averments found in the domestic violence complaint made against the petitioners, who are parents-in-law of the 1st respondent/wife are false and no domestic violence incident had taken place.

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:-

“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



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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 Civil Revision Petition is dismissed with liberty to the petitioners to appear before the concerned Magistrate and raise all their objections as to the maintainability of the complaint as well as other jurisdictional issues.

5. The learned counsel for the petitioners submitted that the petitioners are aged parents-in-law of the wife and therefore, their presence may be dispensed with before the Judicial Magistrate.



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6. It is open to the petitioners to make such a request before the concerned Magistrate by filing formal application. If any such application is filed seeking exemption from personal appearance, the same shall be considered by the learned Magistrate in accordance with the law.

7. With this liberty, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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To

The learned Judicial Magistrate, Additional Mahila Court, Erode



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S.SOUNTHAR, J.

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