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C.R.P.(PD).No.1055 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1055 of 2024

and

C.M.P.No.5473 of 2024

JENNET

... Petitioner

VS

1.F.SHEELARANI

2.FRED ALEN

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for the entire records culminated in filing D.V.C.No.12 of 2023 on the file of the Judicial Magistrate-I, at Poonamallee, Thiruvallur District and strike of the same in so far as the Petitioner is concerned.

For Petitioner : Mr.P.Babu



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ORDER

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The Civil Revision Petition is filed challenging the initiation of proceedings under Domestic Violence Act by the 1st respondent.

2. The petitioner herein is the mother-in-law of the 1st respondent. The 1st respondent herein filed domestic violence case in D.V.C.No.12 of 2023 against the petitioner and 2nd respondent.

3. The learned counsel appearing for the petitioner submits that there is no allegation of domestic violence involving the petitioner and hence, proceedings initiated by the 1st respondent against the petitioner is not at all maintainable. The learned counsel further submitted that relief prayed for by the 1st respondent against the petitioner can be granted only by the regular Civil Court and for recovery of money no petition under Domestic Violence Act is not maintainable.



4. The Full Bench of this Court in **Arul Daniel vs. Suganya** reported in **WEB C (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 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.”



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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 petitioner is at liberty to approach the concerned Magistrate and raise the question of maintainability and other jurisdictional issues.

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

Consequently, the connected civil miscellaneous petition is closed.

21.03.2024

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



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To

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The Judicial Magistrate-I,
Poonamallee, Thiruvallur District.



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S.SOUNTHAR, J.

dm

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