



C.R.P.No.1133 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1133 of 2024

and

C.M.P.No.5878 of 2024

1.R.Thirunavukkarasu
2.Rani

... Petitioners

Vs.

1.V.Saranya
2.T.Karthik

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to quash the petition filed in D.V.C.No.58 of 2023 pending on the file of the learned IX Metropolitan Magistrate Court at Saidapet.

For Petitioner

:M/s.N.Kalidoss



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ORDER

The Civil Revision Petition is filed seeking to quash the complaint filed by the 1st respondent under Domestic Violence Act in D.V.C.No.58 of 2023 pending on the file of learned IX Metropolitan Magistrate, Saidapet.

2. The petitioners are parents-in-law of 1st respondent. The 2nd respondent is the son of petitioners and he got married the 1st respondent. According to the petitioners, the 1st respondent has not suffered any domestic violence and the present complaint filed by her in D.V.C.No.58 of 2023 is not at all maintainable in the absence of any domestic violence involving her.

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



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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 laid down by the Full Bench of this Court in the above mentioned case law, it is for the petitioners to approach the very same Magistrate and raise all jurisdictional and maintainability issues.



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5. In view of the same, this Civil Revision Petition is dismissed with liberty to the petitioners to raise all the points raised by them in this revision before the concerned Magistrate. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To
The IX Metropolitan Magistrate Court, Saidapet.



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S.SOUNTHAR, J.

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