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C.R.P.(PD).No.2286 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2286 of 2021
and C.M.P.Nos.17291 and 17293 of 2021

1.K.Thilagavathi
2.S.Kalaichelvan

... Petitioners

VS

Shiny

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to quash the complaint in D.V.C.No.4 of 2021 on the file of the learned Judicial Magistrate No.I, Mannargudi by allowing this Civil Revision Petition.

For Petitioners : Mr.N.Manoharan

For Respondent : Sole respondent not ready notice

ORDER

The Civil Revision Petition is filed mainly on the ground that the



C.R.P.(PD).No.2286 of 2021

marriage between the respondent and her husband was solemnized in the year 2012 and the husband of the respondent died on 10.02.2018 and hence, the present complaint made by the respondent in the year 2021 is clearly barred by limitation.

2. The Full Bench of this Court in ***Arul Daniel vs. Suganya*** reported in ***(2022) 4 MLJ (Crl) 561***, while considering the question relating to the maintainability of the revision against the proceedings initiated under the Domestic Violence Act, has 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



C.R.P.(PD).No.2286 of 2021

WEB COPY

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.”

3. In view of the law settled by the Full Bench of this Court in the above mentioned case, this Court not inclined to exercise it's supervisory power under Article 227 of Constitution of India and therefore, the Civil Revision Petition is dismissed with liberty to the petitioner to raise all the objections raised in this revision before the Magistrate concerned. The petitioner is at liberty to raise issue of maintainability and other preliminary issues before concerned Magistrate.

4. With this liberty, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petitions are closed.

22.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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C.R.P.(PD).No.2286 of 2021

S.SOUNTHAR, J.

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To

The Judicial Magistrate No.I,
Mannargudi.

C.R.P.(PD).No.2286 of 2021

22.02.2024