



C.R.P.No.2696 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2696 of 2021
and C.M.P.No.19806 of 2021

Revathi

... Petitioner

VS

R.Jayapriya

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to quash the Complaint in D.V.O.P.No.6 of 2021 pending before the District Munsif Cum Judicial Magistrate, Neyveli, Cuddalore and quash the same.

For Petitioner : Mr.S.Arunkumar
for M/s.R.Venkatesh

For Respondent : Not Ready in Notice

ORDER

The Civil Revision Petition is filed challenging the proceedings initiated by respondent under Domestic Violence Act, 2005 in D.V.O.P.No.6 of 2021 on the ground that the petitioner is relative of her husband.

2. The learned counsel appearing for the petitioner submitted that



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respondent has filed the above said complaint under Domestic Violence Act, 2005 just to harass the petitioner and the petitioner is no way connected with the family dispute between the respondent and her husband.

3. 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, 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



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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 ***Arul Daniel vs. Suganya*** reported in ***(2022) 4 MLJ (Crl) 561***, it is open to the petitioner to appear before the concerned Magistrate and raise all jurisdictional issues and issue of maintainability of the complaint. Hence, the Civil Revision Petition is dismissed with liberty to approach the concerned Magistrate raising the question of maintainability as well as other jurisdictional issues. No costs. Consequently, the connected civil miscellaneous petition is closed.

01.03.2024

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

To

The District Munsif Cum Judicial Magistrate,
Neyveli, Cuddalore.



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S.SOUNTHAR, J.

dm

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