



WEB COPY



C.R.P.(PD).No.2840 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2840 of 2021
and C.M.P.No.20586 of 2021

1.E.Pradeep

2.Elango

3.Vasanthi

... Petitioners

VS

S.Divya

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike out the petitioners name in D.V.C.No.5 of 2021 pending on the file of the Learned Judicial Magistrate, Sirkali and the as abuse of the process of law and by allowing the present Civil Revision Petition.

For Petitioners : Ms.R.Nirmala Devi

For Respondent : M/s.OM Sai Ram
Mr.S.T.Raja

ORDER

The Civil Revision Petition is filed challenging the initiation of proceedings under Domestic Violence Act by Judicial Magistrate, Sirkali on



the ground that the complaint made by the respondent is false and frivolous one and bereft of any details.

2. 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



C.R.P.(PD).No.2840 of 2021

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 these circumstances, as per the decision of the Full Bench of this Court in **Arul Daniel vs. Suganya** reported in **(2022) 4 MLJ (Crl) 561**, the petitioners are directed to appear before the Magistrate concerned and raise all their objections with regard to maintainability and other preliminary issues.

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

08.01.2024

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

The Judicial Magistrate, Sirkali.



WEB COPY



C.R.P.(PD).No.2840 of 2021

S.SOUNTHAR, J.

dm

C.R.P.(PD).No.2840 of 2021

08.01.2024