



C.R.P.(PD).No.2619 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2619 of 2021

and

C.M.P.No.19452 of 2021

Thirukumaran

... Petitioner

VS

P.Kalpana

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the summons of the district social welfare officer, Thiruvannamalai on 28.08.2021 in Na.Ka.No.1074-2/A4/21 on his file and allow the above CRP.

For Petitioner : Mr.V.Sairam

For Respondent : Mr.M.R.Thangavel



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ORDER

The Civil Revision Petition is filed challenging the summons issued by the District Social Welfare Officer, Thiruvannamalai.

2. It is the case of the petitioner that he received summons from District Social Welfare Officer on 04.09.2021 for the hearing date fixed on 03.09.2021 and hence, no proper notice was served for enquiry. It is also brought to notice of this Court based on the report filed by the District Social Welfare Officer, a domestic violence case has been filed against the petitioner in D.V.C.No.14 of 2021 on the file of the learned Judicial Magistrate, Arani and the petitioner also entered into appearance in that case. The learned counsel submitted domestic violence case based on report submitted by District Social Welfare Officer without proper enquiry is not maintainable.

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:-

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“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.*”

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



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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 the petitioner to raise all his objections before the concerned Magistrate. No costs. Consequently, the connected civil miscellaneous petition is closed.

27.02.2024

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

The District Social Welfare Officer,
Thiruvannamalai.

Copy to

The Judicial Magistrate,
Arani.



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S.SOUNTHAR, J.

dm

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