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C.R.P.No.2902 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2902 of 2021 and
C.M.P.No.20903 & 20905 of 2021

1.J.Ashock Kumar
2.Gandhi Mathi

... Petitioners

Vs.

1.P.Kalpana
2.Thirukumaran

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to call for the records on the file of Judicial Magistrate, Aarani in DV.No.14 of 2021 and quash the proceedings in so far as the petitioners concerned.

For Petitioner : No appearance
For Respondents : No appearance

ORDER

The Civil Revision Petition is filed challenging the initiation of proceedings under Prevention of Women from Domestic Violence Act.



2. It is the case of the petitioners that they are in-laws of the 1st respondent and the complaint has been laid by the 1st respondent after 10 years from the date of marriage.

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 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



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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 settled by the Full Bench of this Court in **Arul Daniel vs. Suganya** reported in **(2022) 4 MLJ (Crl) 561**, the petitioners are at liberty to move the concerned Magistrate and raise issue of maintainability and other preliminary issues. The petitioners are granted liberty to raise all the points raised by them in this revision before the Magistrate.

5. With these liberty, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petitions are closed.

12.01.2024

Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR, J.

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To

The learned Judicial Magistrate, Aarani

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