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C.R.P.(PD).No.2955 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2955 of 2021
and C.M.P.No.21150 of 2021

S.Sunil Kumar

... Petitioner

VS

1.K.Vishali
2.S.Sriram
3.S.Suganthavalli
4.M.Subramani
5.S.Saicharan
6.S.Raghavi
7.Udhay Kumar

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to call for the records pertaining to the impugned proceedings made in D.V.C.No.42 of 2021 on the file of the learned Additional Mahila Court, Alandur and quash the same.

For Petitioner : Ms.S.Rithika

For Respondents : Mr.Huda Syed
for M/s.P.Wilson Associates for R1
R2 to R7 given up



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ORDER

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The Civil Revision Petition is filed challenging the initiation of proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.42 of 2021, on the ground that the petitioner never resided with the first respondent herein in a “shared household” as contemplated under Section 2(s) of the Protection of Women from Domestic Violence Act, 2005.

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



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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.”

3. In view of the law settled by the Full Bench of this Court in the above mentioned case, this Court is inclined to dispose of the Civil Revision Petition with liberty to the petitioner to move the concerned Magistrate, raising all objections with regard to the maintainability as well as preliminary issues.

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

24.01.2024

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

The Additional Mahila Court,
Alandur.



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S.SOUNTHAR, J.

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24.01.2024