



CRP.No.2941of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2941 of 2021

and

CMP.Nos.21082 & 21326 of 2021

1.Visweswaran
2.Sasikala
3.Madhaiyan

... Petitioners

Vs.

P.Anupriya

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the DVC.No.05 of 2021 on the file of the Additional Mahila Court, Dharmapuri.

For Petitioners : Mr.K.V.Muthu Visakan

For Respondent : Mr.M.Selvam



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ORDER

This Civil Revision Petition is filed challenging the proceedings initiated under Domestic Violence Act in DVC.No.5 of 2021 on the file of the Additional Mahila Court, Dharmapuri.

2. The proceedings initiated under Domestic Violence Act have been challenged by the petitioners mainly on the ground that the respondent is in the habit of filing numerous petitions and complaints against the petitioners and hence, the present proceedings initiated under the Domestic Violence Act is an abuse of process of Court. It is also stated by the petitioners that the respondent suppressed material facts while filing maintenance case in MC.No.16 of 2021 on the file of the Family Court, Dharmapuri.

3. The learned counsel for the petitioners also submitted that now the domestic violence case pending on the file of the Additional Mahila Court, Dharmapuri is re-numbered as DVC.No.7 of 2023.



4. 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 recourse to an appeal under Section 29 of the D.V Act for effective redress (See V.K Vijayalekshmi Amma v Bindu. V.,



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(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.”

5. 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 petitioner is at liberty to move the concerned Magistrate and raise the issue of maintainability and other preliminary issues. The petitioner is granted liberty to raise all the points raised by him in this revision before the Magistrate.

6. With these liberty, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

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Index : Yes / No
Internet : Yes / No
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The Additional Mahila Court, Dharmapuri.



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S.SOUNTHAR, J.

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