



C.R.P.(PD).No.4799 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4799 of 2024  
and  
C.M.P.No.26858 of 2024

Mr.S.Pradeep

... Petitioner

..Vs..

Mrs.S.Aiswarya

... Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, to call for records relating to D.V.C. No.145 of 2021 on the file of the Special Magistrate to try cases filed under Domestic Violence Act, at Coimbatore hereby to quash the same.

For Petitioner : Ms.K.Anusuya



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## **ORDER**

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This Civil Revision Petition challenges the presentation of D.V.A.No.145 of 2021 before the Special Magistrate to try cases filed under the Domestic Violence Act at Coimbatore.

2. There is no dispute in the relationship between the parties. The sole respondent married the petitioner on 20.02.2012. From the wedlock, a child was born on 14.10.2013. Alleging that, the husband had emotionally and physically abused her, she has presented D.V.A.No.145 of 2021.

3. The petition, though presented against the father and mother of the civil revision petitioner, Ms.K.Anusuya states summon was not issued to them. D.V.A.No.145 of 2021 was taken on file only as against the civil revision petitioner. D.V.A.No.145 of 2021 seeks for several reliefs under Sections 18 to 22 of Act 43 of 2005.



4. A full Bench of this Court in *Arul Daniel vs. Suganya (Crl.O.P.*

**SR. Nos.31852 of 2022 Batch)**, dated 17.11.2022, has held that where the domestic relationship exists and the learned Magistrate, *prima facie* has jurisdiction to try the proceedings then the same should not be quashed in the exercise of jurisdiction under Article 227 of the Constitution of India. The Court further held that in case, any respondent wants to be removed from the array of parties, the remedy is only to file an application to strike off before the learned Magistrate. When *prima facie* the domestic relationship exists between the petitioner and the respondent, I am not in a position to hold that the learned Judicial Magistrate has no jurisdiction.

5. At this stage, the learned counsel for the petitioner points out on the very same day on 04.08.2021, the wife not only initiated proceedings before the Domestic Violence Court but had also presented M.C.No.116 of 2021 before the Family Court at Coimbatore seeking for maintenance. She invites my attention to the order passed by the learned Judicial Magistrate in C.M.P.No.21326 of 2021 in D.V.A.No.145 of 2021 dated 11.04.2023 and states that the wife is seeking Rs.1,00,000/- as maintenance before the



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Domestic Violence Court as well as before the learned Family Judge at Coimbatore.

6. The position of law has been settled by the Supreme Court in ***Rajnish vs. Neha & Another 2020 INSC 631:(2021) 2 SCC 324***. At the time of fixation of maintenance, a Domestic Violence Court should take into consideration that any previous order of maintenance has been passed under Section 125 of Cr.P.C and *vice versa*. Therefore, it is for the petitioner to urge this point before the learned Judicial Magistrate or before the Family Court, bringing it to the notice of the respective Courts that maintenance is being claimed in two forums and there has to be an adjustment of the amounts ordered. That by itself is not a ground to quash the proceedings.

7. This is because apart from maintenance, the wife has sought for several reliefs in the Domestic Violence Petition, which covers the entire spectrum of Sections 18 to 22 of Act 43 of 2005.



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8. With the above observations, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition stands closed.

03.12.2024

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To

1. The Special Magistrate to try cases filed under Domestic Violence Act, at Coimbatore.

**V.LAKSHMINARAYANAN, J.**



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