



C.R.P.No.984 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.984 of 2024
and
C.M.P. Nos.5046 and 5048 of 2024

1. Ravishankar B S/o. Late N. Babu Rao
2. Shobha R W/o. Ravishankar B ... Petitioners

vs.

1. Lavanya M
2. Bharath R S/o. Ravishankar B ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to strike of the proceedings against the petitioners in D.V.C. No.23 of 2021 on the file of the Additional Mahila Court, Udthagamandalam.

For Petitioner : Ms. U. Parvatha Varthini

ORDER

This Civil Revision Petition is filed challenging the initiation of proceedings under Domestic Violence Act in D.V.C. No.23 of 2021 on the file



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of the learned Additional Mahila Court, Udhagamandalam.

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2. It is the case of the petitioners that the allegations made against the petitioners, who are parents of the husband, are false allegations and hence the domestic violence application preferred by the respondents is not at all maintainable.

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



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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 settled by the Full Bench of this Court in ***Arul Daniel vs. Suganya*** reported in ***(2022) 4 MLJ (Crl) 561***, the Civil Revision Petition is dismissed with liberty to the petitioners to appear before the concerned Magistrate and raise all their objections as to the maintainability of the complaint as well as other jurisdictional issues.

5. The learned counsel for the petitioners submitted that the petitioners are aged parents of the husband and therefore, their presence may be dispensed with before the Judicial Magistrate.



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WEB COPY 6. It is always open to the petitioners to file proper application before the concerned Magistrate seeking exemption from personal appearance. If any such application is filed seeking exemption from personal appearance, the same shall be considered by the learned Magistrate in accordance with the law.

7. With this liberty, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

18.03.2024

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

To

The Additional Mahila Court, Udhagamandalam.



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S.SOUNTHAR, J.

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