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C.M.P. (MD) No. 5826 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

C.M.P. (MD) No. 5826 of 2024
in
C.R.P. (MD) No. SR 20453 of 2024

Subramani

... Petitioner

Vs.

Kannaki

... Respondent

PRAYER in C.M.P. (MD) No. 5826 of 2024: Petition filed under Section 115 of the Civil Procedure Code to dispense with the production of the original order passed in Cr.M.P. No. 1548 of 2013 in D.V.C. No. 14 of 2012 dated 06.12.2018 under the Domestic Violence Act on the file of the Judicial Magistrate No.II, Karur.

PRAYER in C.R.P. (MD) No. SR 20453 of 2024: Petition filed under Article 227 of the Constitution of India to call for the records relating to the order passed in Cr.M.P. No. 1548 of 2013 in D.V.C. No. 14 of 2012 dated 06.12.2018 under the Domestic Violence Act on the file of the Judicial Magistrate No.II, Karur and quash the same.

For Petitioner : Mr. M.Ramu



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ORDER

The Civil Revision Petition invoking under Article 227 of the Constitution of India, has been filed to set aside the order dated 06.12.2018 made in Cr.M.P. No. 1548 of 2013 in D.V.C. No. 14 of 2012 on the file of the Judicial Magistrate No.II, Karur (hereinafter referred to as the 'Trial Court' for short) .

2. Heard Mr. M.Ramu, Learned Counsel for the Petitioner and perused the materials placed on record apart from the pleadings of the parties.

3. At this juncture, taking into consideration the relief sought in this Civil Revision Petition, the reference must be made to the dictum laid down by Full Bench of this Court in *Arul Daniel -vs- Suganya* (Order dated 17.11.2022 in CrI. O. P. S.R. No. 31852 of 2022 and etc., batch), which reads as follows:-

“35. ...In normal circumstances, the power under Article 227 will not be exercised, as a measure of self-imposed restriction, in view of the corrective mechanism available to



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the aggrieved parties before the Magistrate, and then by way of an appeal under Section 29 of the Act.”

It would also be useful to extract Section 29 of the Protection of Women from Domestic Violence Act, 2005, below:-

“29. Appeal. — There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.”

4. Having due regard to that position of law, it has not been demonstrated before this Court that the Petitioner has been impeded from canvassing what is sought to be agitated in this Civil Revision Petition in an appeal before the Sessions Court as explicated in the aforesaid binding decision of this Court and the Memorandum of Grounds of Revision is also bereft of any details in that regard.

5. In that backdrop, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Civil Revision Petition reserving the right of the



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Petitioner to resort to aforesaid procedure. He has also made an endorsement to that effect in the court record.

In view of the same, the Civil Revision Petition is dismissed as withdrawn in SR stage itself with the aforesaid clarifications. It is needless to add here that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of presentation of the Civil Revision Petition, viz., 13.03.2024, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. Consequently, connected Miscellaneous Petition is closed. No costs. No costs.

17.04.2024

Index : Yes/No
Internet : Yes/No
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Note:- Issue order copy by 25.04.2024.



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To:

1. The Judicial Magistrate Court No.II, Karur.
2. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



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P.D.AUDIKESAVALU,J.

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