



C.R.P. (MD) No.1018 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **22.04.2023**

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

C.R.P. (MD) No. 1018 of 2024

and

C.M.P. (MD) Nos. 5637 & 5638 of 2024

1.Ananth Barnabas

2.A.Barnabas

... Petitioners

Vs.

M.S.Shaju

... Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, to call for records relating to the order in Crl.M.P. No.11616 of 2023 in D.V.C. No. 18 of 2023 passed by the learned Judicial Magistrate No. I, Padmanabhapuram dated 22.11.2023 and set aside the same by allowing the civil revision petition.

For Petitioners

: Mr. A.Balakrishnan



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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 22.11.2023 made in CrI.M.P. No.11616 of 2023 in D.V.C. No. 18 of 2023 on the file of the Judicial Magistrate No. I, Padmanabhapuram (hereinafter referred to as the 'Trial Court' for short) .

2. Heard Mr. A.Balakrishnan, Learned Counsel for the Petitioners 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, 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 Petitioners have 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 Petitioners seeks permission of the Court to withdraw the Civil Revision Petition reserving the right of the



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Petitioners 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 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., 18.03.2024, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. Consequently, connected Miscellaneous Petitions are closed. No costs.

22.04.2024

Index : Yes/No
NCC : Yes/No
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TO:

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- 1.The Judicial Magistrate No. I, Padmanabhapuram.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.D.AUDIKESAVALU,J.

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