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CrI.O.P.(MD)No.13824 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.13824 of 2022 and
CrI.M.P.(MD).No.8850 of 2022

1.M.Shahul Hameed

2.S.Rabeeka Beevi

3.M.Rowthar Kani

4.M.Pathumuthu

5.M.Rowthar Kani

... Petitioners/Respondents 2 to 6

Vs.

1.Nabeesa Begam

2.Minor Rayan Fathima

(Minor represented through her mother/
natural guardian/1st respondent herein)

...Respondents/Petitioners

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in D.V.O.P.No.71 of 2022 on the file of the learned Judicial Magistrate, Karaikudi and quash the same.

For Petitioners : Mr.D.Venkatesh

For Respondents : Mr.N.Saravanan
for R1
No appearance for R2



ORDER

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This petition has been filed to quash the proceedings initiated under the provisions of the Protection of Women from Domestic Violence Act, 2005, before the concerned jurisdictional Court.

2.Heard the learned counsel for the petitioners and the learned counsel for the first respondent.

3.The issue raised in this petition is no longer *res-integra* in view of the pronouncement judgment in **Arul Daniel Vs. Suganya (in Crl.O.P.SR.Nos.31852 of 2022 etc.) reported in 2022-5-L.W. 481**, wherein, when similar issue came up for consideration before the Hon'ble Full Bench of this Court as to whether the proceedings, which is initiated under the provisions of Protection of Women from Domestic Violence Act, 2005, can be entertained under Section 482 of Cr.P.C, or not, the Hon'ble Full Bench of this Court has rendered a finding vide order dated 17.11.2022, to the effect that the proceedings initiated under the Protection of Women from Domestic Violence Act, 2005, could be challenged under Article 227 of the Constitution of India by way of filing a Civil Revision Petition instead of invoking the powers under Section 482 of Criminal Procedure Code.



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4. In view of the decision rendered by the Full Bench of this Court, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

5. At this juncture, the learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the petitioners before the court below.

6. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

14.03.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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M.DHANDAPANI. J.

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To

The Judicial Magistrate, Karaikudi

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