2024:PHHC:172786

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

115 CR-7821-2023 (O&M)
Date of decision: 19.11.2024

Dr. Mahender Singh and others

...Petitioners

Versus

Preetam Jakhar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Rahul Noorie, Advocate for
Mr. Abhimanyu Singh, Advocate for the petitioners.

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VIKAS SURI, J. (Oral)

1. This is a petition under Article 227 of the Constitution of India for setting aside the complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act') bearing complaint No.223 of 2023 (instituted on 15.06.2023) titled as *Smt. Preetam Jhakhar vs. Manvendra Singh and others* as well as summoning order dated 25.09.2023 (*sic*–13.07.2023) (Annexure P-19A) passed by learned Judicial Magistrate First Class, Gurugram and the entire proceedings at the instance of respondent-complainant.

2. Learned counsel for the petitioners submitted that the instant revision petition has been filed invoking jurisdiction under Article 227 of the Constitution of India, as petition under Section 482 Cr.P.C. for quashing of complaint filed under Section 12 of the Act has

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been held to be not maintainable, by a coordinate bench of this Court in CRM-M-19553-2023 titled as ***Jaspal Kaur @ Pinki and another vs. State of Punjab and another***. It is further submitted that in the said case, reliance has been placed upon the ratio of the Full Bench judgment of Hon'ble Madras High Court in the matter of ***Arun Daniel and others vs. Suganya***, reported as **2022 SCC OnLine Mad 5435**.

3. Correctness of ***Jaspal Kaur @ Pinki's case*** (supra) was called in question by another coordinate bench of this Court and accordingly, reference was made for adjudication by a larger bench. The said reference stands answered by a Division Bench of this Court in a bunch of cases decided on 25.10.2024, the lead case being ***Hemant Bhagat and others vs. Prekshi Sood Bhagat***, reported as 2024:PHHC:140559-DB. The question posed in the said case and answered by the Division Bench, relevant to the instant case, reads as thus:-

> **Question:**
>
> (i) Once Section 28(1) prescribes that all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under Section 31 shall be governed by the provisions of Code of Criminal Procedure, 1973, can it be held that application of Section 482 Cr.P.C. is ousted?
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> **Answer:**
>
> (i) Section 482 Cr.P.C./528 B.N.S.S. is applicable qua proceedings arising out of complaint under Section 12 of the Act of 2005. The only exception is the cases where provisions of the Act of 2005 have

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been invoked in proceedings pending before Civil Court or Family Court.

4. Faced with the aforesaid, learned counsel for the petitioners seeks withdrawal of the present petition with liberty to file a petition under Section 482 Cr.P.C./528 B.N.S.S. on the same cause of action.

5. Dismissed as withdrawn with liberty aforesaid.

(VIKAS SURI)
JUDGE

November 19, 2024
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Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No

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