



C.R.P(MD)No.870 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2026

CORAM

THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.870 of 2023

and

C.M.P(MD)No.3944 & 3946 of 2023

1.Pallavarajan
2.Rajendran
3.Uma Maheswari
4.Rajasuganya

.. Petitioners

Vs.

1.Priyanga (died)

(Since the R1 died and the court notice may be dispensed with as the R2 is impleaded on behalf of her by the trial court)

2.Kanagajothi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to call for the records relating to the impugned D.V.C.No.1 of 2019 on the file of the Judicial Magistrate, Bodinayakanur and strike of the same as illegal.

For Petitioners : Mr.B.Jeyakumar

For Respondents : Mr.K.A.Manikam for

Mr.A.Mohan for R2

R1 - died



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ORDER

The Civil Revision Petition has been filed seeking to strike off the complaint filed under the provisions of the Protection of Women from Domestic Violence Act, 2005.

2.The deceased first respondent had originally filed a complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005, claiming various reliefs. Subsequently, the first respondent passed away. Thereafter, the second respondent, who is the mother of the deceased first respondent, sought to prosecute the complaint.

3. The learned counsel appearing for the petitioners would submit that the second respondent, being only the mother of the deceased first respondent, cannot be termed an "aggrieved person" within the meaning of Section 2(a) of the Protection of Women from Domestic Violence Act, 2005. Therefore, the learned Magistrate ought not to have taken cognizance of the matter or permitted the proceedings to continue after the death of the first respondent.



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4. Whether the second respondent is an "aggrieved person" and whether she is entitled to prosecute the proceedings after the death of the first respondent are jurisdictional issues. Such issues can be raised by the petitioners by filing an appropriate application before the learned Magistrate, in the light of the law laid down by the Full Bench of this Court in **Arul Daniel and Others Versus Suganya** reported in **(2022) SCC Online Mad 5435**.

5. The Full Bench of this Court in the case of **Arul Daniel and Others Versus Suganya** reported in **(2022) SCC Online Mad 5435** held that any person aggrieved by the process issued by the Magistrate can go before the very same Magistrate and raise preliminary objections with regard to the issues like existence of a shared household/ domestic relationship etc., If any order is passed, the aggrieved person can also take recourse to an appeal under Section 29 of the Domestic Violence Act. The relevant portion reads as follows:-

"87(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 AdalatPrasad 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.



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Consequently, it would be open to an aggrieved respondent (s) to approach the Magistrate and raise the issue of 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.”

6. In view of the availability of alternative remedy before the Magistrate, as held by the Full Bench in Arul Daniel case, this Court is not inclined to exercise supervisory power under Article 227 of the Constitution of India. Further, the Hon'ble Apex Court in the case of **Virudhunagar Nadargal Dharma Paripalana Shabha Vs Tuticorin Educational Society** reported in **MANU/SC/1365/2019** held that availability of alternative remedy before regular Courts, is near total bar for exercise of supervisory power by High Court. Hence, I am not inclined to interfere in revision.



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7. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioners to approach the concerned Magistrate for getting appropriate remedy in terms of order passed in Arul Daniel case cited supra.

8. Since the complaint preferred by the first respondent under Sections 18 to 21 of the Protection of Women from Domestic Violence Act, 2005, are predominantly civil in nature, the personal appearance of the petitioners before the Judicial Magistrate, Bodinayakanur, is dispensed with, unless their presence is absolutely necessary. No costs. Consequently, the connected miscellaneous petitions are closed.

15.07.2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
skn

To

1.The Judicial Magistrate, Bodinayakanur.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

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