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C.R.P. No. 425 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No. 425 of 2024
and
C.M.P. No. 2041 of 2024

1.Bibin Charles

2.Charles Joseph

3.Sibi Charles

... Petitioners

Vs.

Rosemary Raphael (Rini)

... Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records in DVA No.224 of 2023 on the file of the Special Court for Domestic Violence Court Cum Judicial Magistrate at Coimbatore and quash the same.

For Petitioners : Mr. B. Manoharan

For Respondent : No Appearance



C.R.P. No. 425 of 2024

ORDER

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The Civil Revision Petition is filed seeking to strike off the complaint preferred by the respondent / wife under the provisions of Protection of Women from Domestic Violence Act, 2005 in D.V.A. No. 224 of 2023 on the file of the Special Court for Domestic Violence Court Cum Judicial Magistrate at Coimbatore.

2. It is the case of the petitioner that the marriage between the 1st petitioner and the respondent was solemnised only on 23.04.2023 and within two months, the present complaint has been preferred by the respondent with vague allegations. It is further stated that the allegations contained in the complaint are not sufficient to issue process against the petitioners.

3. 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 Judicial Magistrate can go before the very same Judicial 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 Protection of Women from Domestic Violence Act, 2005. 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 Adalat Prasad 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. 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.”

4. In view of the categorical pronouncement of law by the Full Bench of this Court that a person aggrieved by issuance of process can very well



C.R.P. No. 425 of 2024

approach the concerned Judicial Magistrate raising preliminary issues and hence, this Court is not inclined to exercise its supervisory power under Article 227 of the Constitution of India. When petitioners have remedy before Regular Magistrate, as held by the Hon'ble Apex Court in the case of ***Virudhunagar Nadargal Dharma Paripalana Shabha Vs Tuticorin Educational Society*** reported in ***MANU/SC/1365/2019***, this Court need not exercise its supervisory jurisdiction.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioners to approach the very same Judicial Magistrate namely Special Court for Domestic Violence Court Cum Judicial Magistrate at Coimbatore, raising preliminary issues. If any such application is filed and a preliminary issue with regard to the maintainability of the petition against revision petitioners is raised, the Judicial Magistrate at Coimbatore, shall consider and dispose of the same as expeditiously as possible.

6. Taking into considerations that proceedings under the Domestic Violence Act are predominantly civil in nature, this Court is inclined to dispense with the personal appearance of the petitioners before the learned



C.R.P. No. 425 of 2024

Judicial Magistrate at Coimbatore, unless their presence is absolutely necessary. No costs. Consequently, the connected civil miscellaneous petition is closed.

03.12.2025

Index : Yes / No
Neutral Citation : Yes / No
AT

To
The Special Court for Domestic Violence Court Cum
Judicial Magistrate at Coimbatore.



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