



C.R.P.(PD) No.45 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

CORAM

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

**C.R.P.(PD) No.45 of 2024
and C.M.P.No.173 of 2024**

1. Raja
2. C.Vijayal
3. Pathinathan
4. Selvam
5. Anitha

... Petitioners

Vs.

K.Rajakumari

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to stick of the domestic violence original petition 10 of 2022 on the file of Judicial Magistrate-1, Tirupattur, Vellore District and quash the same as against the petitioners.

For Petitioner : M/s.Karan and Uday
For Respondent : Not ready in notice

ORDER

The Civil Revision Petition is filed to strike off the complaint preferred by the respondent-wife under the provisions of Domestic Violence Act.



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2. The 1st petitioner is the husband of the respondent /complainant.

The respondent herein preferred a domestic violence complaint against the petitioners in DVC.No.10 of 2022. After receipt of notice in the complaint, the petitioners have approached this Court seeking to strike off the complaint on the ground that the allegations of domestic violence made in the complaint were false and raised only for the purpose of the case.

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 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 Adalat Prasad v. Rooplal Jindal ((2004) 7 SCC 338)



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*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 availability of alternative remedy before Magistrate, as held by 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.

5. 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.

6. Taking into consideration that the proceedings pending under the Domestic Violence Act is predominantly civil in nature, this Court is inclined to dispense with the personal appearance of the petitioners before the learned Magistrate, unless their personal appearance is essentially required. No costs. Connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes / No
srn



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To
The Judicial Magistrate-1,
Thirupattur,
Vellore District.



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S.SOUNTHAR, J,

srn

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