



C.R.P.No.889 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2025

CORAM:

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.No.889 of 2023
and
C.M.P.No.6690 of 2023

1.Umapathi
2.Amutha

...Petitioners

-Vs-

Priya

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to quash the entire proceeding in connection with the private complaint in D.V.C.No.6 of 2020 on the file of the Judicial Magistrate Additional Mahila Court, Nagapattinam.

For Petitioners : Mr.T.Arul

For Respondent : Not ready notice

ORDER

This civil revision petition is filed seeking to quash the complaint in D.V.C.No.6 of 2020 on the file of the Judicial Magistrate Additional Mahila Court, Nagapattinam, preferred by the respondent against the petitioners under the provisions of the Domestic Violence Act.



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2. Learned counsel for the petitioners would vehemently contend that the factum of marriage between the 1st petitioner and the respondent has been denied by the petitioners, and therefore, in the absence of any domestic relationship, the complaint filed under the provisions of the Domestic Violence Act is not maintainable.

3. It is further submitted that the respondent, who was examined as PW1, admitted during the course of her evidence that she did not possess any photograph of the alleged marriage, and therefore, the factum of marriage pleaded by the respondent is highly doubtful. Whether there was a valid marriage between the 1st petitioner and the respondent is a question of fact, which can be decided only based on evidence to be adduced by both parties before the Court below.

4. If it is the case of the petitioners that they did not have any domestic relationship with the respondent, it is always open to them to raise a preliminary objection before the Trial Court.

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 learned Magistrate can go before the very same learned Magistrate, raising preliminary objections. 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 observation of the Full Bench 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.”



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S.SOUNTHAR, J.

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Hence, this Court is not inclined to exercise its Supervisory Power available under Article 227 of the Constitution of India to quash the complaint.

6. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Consequently, connected civil miscellaneous petition is closed. The petitioners are at liberty to move the concerned learned Magistrate for getting appropriate remedy as per the law laid down in *Arul Daniel case*.

7. Taking into consideration the proceedings initiated before the learned Magistrate is predominantly civil in nature, the personal appearance of the petitioners during enquiry before the learned Magistrate is dispensed with, unless their personal appearance are absolutely necessary.

02.12.2025

cda

To

The Judicial Magistrate Additional Mahila Court,
Nagapattinam.

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