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CRP No.1030 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No.1030 of 2024 and
CMP No.5384 of 2024**

N.Kishore Kumar

... Petitioner

Vs.

H.Shruthi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to call for the records pertaining to DVC No.69 of 2023 pending on the file of learned XXIII Metropolitan Magistrate Court, Saidapet and quash the same.

For Petitioners: Mr.S.Jayakumar

For Respondent: Mr.C.Sivanesan

ORDER

This civil revision petition is filed seeking to quash the complaint in DVC No.69 of 2023 preferred by the respondent against the petitioner under the provisions of the Domestic Violence Act.

2. The learned counsel for the petitioner would submit that the petitioner filed O.P seeking restitution of conjugal rights against the respondent in HMOP.No.3137/2023 on the file of the III Additional Family Court, Chennai.



Hence, the present complaint preferred by the respondent is only a counter blast.

According to the learned counsel for the petitioner, the allegations made in the complaint are not sufficient to issue process against the petitioner.

3. In view of the Law settled by this Court in ***Arul Daniel and Others Versus Suganya*** reported in (2022) SCC Online Mad 5435, if the petitioner is aggrieved by the initiation of the proceedings under the Domestic Violence Act, it is for him to move the very same Magistrate raising preliminary issues. The relevant observation of 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).*



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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.

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

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

5. Taking into consideration the proceedings initiated before learned Magistrate is predominantly civil in nature, the personal appearance of the petitioner during enquiry before Magistrate is dispensed with, unless his personal appearance is absolutely necessary.

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S.SOUNTHAR, J.

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To

1. The XXIII Metropolitan Magistrate Court,
Saidapet

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