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CRP No. 887 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-09-2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP No. 887 of 2025

and

CMP No.5169 of 2025

1. D.Seshadri
2.R.Devadoss
3.D.Thamilarasi
4.D.Arumugam
5.A.Akila
6.A.Sathyavani

Petitioners

Vs

R.Ezhilarasi @ Durgadevi

Respondent

PRAYER Civil Revision Petition filed under Article 227 of Constitution of India, to quash the proceeding of the Learned Judicial Magistrate Court in D.V.C.No.7 of 2024 on the file of the Judicial Magistrate Court, Valangaiman, Thiruvarur District.

For Petitioners: Mr.A.Poornachandran

For Respondent: Mr.M.Vijayaragavan



ORDER

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This Civil Revision Petition has been filed to quash the proceedings in D.V.C.No.7 of 2024 on the file of the Judicial Magistrate Court, Valangaiman, Thiruvarur District.

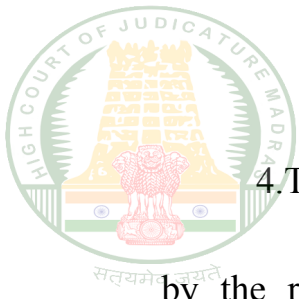
2.The learned counsel appearing for the petitioners would state that the learned Magistrate has erroneously entertained the complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against all the petitioners without there being sufficient grounds, which constrained the petitioners to move this Court.

3.The learned counsel for the petitioners would further submit that while entertaining the complaint, the Court below had not taken into account that the respondent/wife had filed two cases on the same day on 04.07.2024, viz.,D.V.C No.7 of 2024 and for the restitution of conjugal rights, in H.M.O.P.No.35 of 2024 on the file of Sub-Court, Nagapattanam. The learned counsel would submit that the marriage was solemnized on 20.08.2021 and thereafter upto



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25.08.2021, the respondent/wife lived with the 1st petitioner in the matrimonial home. Thereafter, the respondent/wife has got an appointment in UCO Bank at Ariyalur District and she used to stay in Ariyalur in a hostel, while the 1st petitioner is residing in Thiruvarur District and his parents, viz., 2nd and 3rd petitioners who are in-laws are also residing in Thiruvarur District. The 4th petitioner who is the uncle of the 1st petitioner and his wife the 5th petitioner are residing in Thanjavur District. The 6th petitioner aged about 65 years is the 2nd own sister of 2nd petitioner and they are not in joint family relationship, living at Mannargudi Taluk, Thiruvarur District. The respondent/wife is working in the UCO Bank, Ariyalur branch immediately after the marriage and now she is working in Papanasam near her native place. The learned counsel would further submit that the 1st petitioner has sent a letter dated 08.11.2022 to the respondent/wife, seeking her to come and live with him. However, even after receiving the said letter and in spite of several efforts made by him, the respondent/wife did not come forward to live together with him. The 1st petitioner sent a legal notice dated 13.07.2023 to the respondent/wife seeking her to come and live with him.



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4. The learned counsel would contend that in the documents relied upon by the respondent/wife, there is absolutely no whisper about any acts of domestic violence. Therefore, when no specific overtact of domestic violence has been pleaded specifically against the petitioners and as against the in-laws father-in-law and mother-in-law and the relatives, the Court below ought not to have taken DVC case on the file. He would further submit that only in order to harass the petitioners, the DVC has been lodged. He would also state that there is an inordinate and unexplained delay in filing the complaint and viewing the same with the surrounding circumstances, the conduct of the respondent/wife clearly indicates that she is attempting to compel the 1st petitioner to accept for restitution of conjugal rights. The learned counsel for the petitioners, to strengthen his contentions, has relied upon a judgment of the Hon'ble Allahabad High Court reported in *MANU/UP/0123/2025, Krishnawati Devi and Others Vs. State of U.P. And Others*, to show that number of cases, where just to harass the family of husband (or) the person in domestic relationship, aggrieved party used to implicate the relatives of other side, who are not even living (or) lived with aggrieved person in shared household and they have been residing at



separate places.

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5.Per contra, the learned counsel appearing for the respondent/wife would state that the petitioners are residing in one shared household, admittedly that is under one proof and when the allegations are made out against all the petitioners, the matter certainly requires a trial and therefore, the complaint cannot be struck off as not maintainable. He would also submit that the 1st petitioner and the respondent/wife were jointly living in common place at Thanjavur. Out of their wedlock, a female child was born on 23.04.2022 and subsequently within three days, the said female child died. To strengthen his contentions he relied upon the decision of the Hon'ble Full Bench judgment of this Court in the case of *Arul Daniel and Others Vs. Suganya, reported in (2022) 3 MWN (Crl.) 539*.

6.This Court has considered the submissions advanced by the learned counsel on either side and also gone through the typed set of papers, the decisions on which reliance was placed on by the learned counsel on either side



as well as the domestic violence complaint in particular.

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7. The respondent is the wife of the 1st petitioner. The 2nd petitioner is the father of the 1st petitioner, the 3rd petitioner is the mother of the 1st petitioner, the 4th petitioner is the uncle of the 1st petitioner and his wife is the 5th petitioner and the Aunt of 1st petitioner is the sister of 2nd petitioner's wife Devadas and further the 6th petitioner is the own sister of 3rd petitioner/mother-in-law. As rightly contended by the learned counsel for the respondent, the parties lived under one roof. Moreover, the 1st petitioner and the respondent have resided together in a common place at Thanjavur and they were blessed with a child on 23.04.2022. It is also seen from records that the 1st petitioner has filed the petition under Section 13 (1)a and 13(1)b of Hindu Marriage Act for divorce on the ground of cruelty and sought for dissolution of marriage held between the 1st petitioner and the respondent/wife in H.M.O.P.No.117/2023 on the file of the Family Court, Mannargudi and the same is pending for adjudication. It is also not in dispute that the respondent/wife has filed the DVC in H.M.O.P.No.7/2024 in the month of July 2024 and in the same month, she has filed an application for



restitution of conjugal rights in H.M.O.P.No.35/2024 on the file of the Subordinate Court, Nagapattinam and the same is also pending for adjudication.

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8. Even though the allegations are not specific against any of the petitioners, it is seen that the allegations are made against all the petitioners. The respondent/wife clearly alleged that the petitioners have caused domestic violence. The factual allegations cannot be decided in a summary procedure. The parties would have to necessarily lead oral and documentary evidence before the learned Magistrate before the Magistrate, who in turn, comes to the conclusion as to whether the allegations of the domestic violence on the part of the petitioners have been established or not.

9. Much reliance has been placed in *Arul Daniel's* case (referred herein supra). Wherein after elaborately discussing the legal position, the Full Bench of this Court constituted for an authoritative pronouncement, framed the following five questions:

“(i) Whether the proceedings initiated under the provisions of the



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Protection of Women from Domestic Violence Act before the Magistrate Courts are the Civil proceedings or Criminal Proceedings?

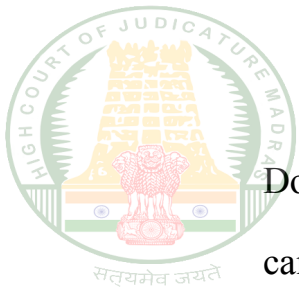
(ii) Assuming that the proceedings are civil in nature, whether the High Court can exercise its power under Section 482 of Cr.P.C., in respect of the said proceedings?

(iii) Whether the provisions of Section 468 of Cr.P.C., are applicable for the proceedings initiated under the Domestic Violence Act?

(iv) Assuming that Section 468 Cr.P.C., is not applicable what is the period of limitation for initiating the proceedings under the Domestic Violence Act?

(v) Whether the proceedings initiated under the Domestic Violence Act and pending before the Magistrate Court can be transferred to the Civil Court or Family Court, by invoking Article 227 of Constitution of India?"

13.The Hon'ble Full Bench has answered the above questions holding that a petition under Section 482 Cr.P.C, challenging the proceedings under Section 12 of DV Act, is not maintainable and that a petition under Article 227 of the Constitution of India is maintainable on a limited ground of patent lack of jurisdiction. The Hon'ble Full Bench also observed that the respondent in the



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Domestic Violence Complaint, if aggrieved by issuance of notice, can always take recourse to Section 25 of the DV Act which expressly authorises the Magistrate to alter, modify or revoke any order under the Act upon showing change of circumstances.

14.The Full Bench has also held that the petition under Article 227 is maintainable only if it is shown that the proceedings before the learned Magistrate suffered from patent lack of jurisdiction and the jurisdiction under Article 227 being one of superintendence and visitorial in nature, the same should not be exercised unless there exists a clear jurisdictional error and manifest or substantial injustice would be caused if the power is not exercised under Article 227 of the Constitution of India. The Full Bench has also held that in normal circumstances, the power under Article 227 is not to be exercised, as a measure of self imposed restrictions, in view of the corrective mechanism available to the aggrieved parties before the Magistrate and with a further recourse by way of an Appeal, under Section 29 of the Act.

10.Having already noticed that specific allegations have been made in the Domestic Violence Case and all the petitioners have been arrayed as accused of



acts of domestic violence, these matters can be decided only after the parties are called upon to lead evidence both oral and documentary. The limited power

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available to this Court to interfere is only on the ground that there is any jurisdictional error committed by the Magistrate or any manifest injustice being caused. No such patent lack of jurisdiction has been shown by the petitioners warranting this Court to exercise its extraordinary power available under Article 227 of the Constitution of India.

11. In the light of the above discussions, this Court is of the view that the petitioners have to necessarily undergo the process of trial and establish that they are not guilty of committing any act of domestic violence. Of course, it is always open to them to move an appropriate Application under Section 25 of DV Act, to modify the order passed, including even issuance of notice to the petitioners.

12. In view of the above, the petition lacks merits and the same is liable to be dismissed. However, at the same time as held by the Hon'ble Full Bench in



Arul Daniel's case (referred herein supra) directing the physical appearance of the petitioners for all hearing should not be normally insisted upon and therefore, personal appearance of the petitioners cannot be insisted upon by the learned Judicial Magistrate and permit the petitioners to appear, either in person or through duly authorise counsel and personal appearance of the petitioners shall be insisted upon only when the Magistrate deems it absolutely necessary for the purposes of examination of the petitioners, in chief and cross examination.

13. With the above direction, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. There is no order as to costs.

04-09-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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M.JOTHIRAMAN J.

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To

The Judicial Magistrate Court,
Valangaiman, Thiruvarur District.

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