



WEB COPY

CRP No.596 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 596 of 2023

C.M.P.Nos.4794 & 4796 of 2023

1. M.Vijaya
2. Murugesan
3. Kayathiri
4. Mathan

Petitioner(s)

Vs

1. S.Anusiya
- 2.M.Gopikrishnan

Respondent(s)

PRAYER:- :Civil Revision Petition filed Article 227 of Constitution of India, pleased to pass an order to call for the proceedings in connection with D.V.A.No.136 of 2022 filed under Protection of Women from Domestic Violence Act, 2005 before the Judicial Magistrate Cum Special Court for Trial of Domestic Violence Act Cases, Coimbatore, and quash the same.

For Petitioner(s): R.Srinivasalu

For Respondent(s): M/s.G.Ashokkumar



ORDER

The Civil Revision petition has been filed seeking to quash the complaint preferred by the 1st respondent under the provisions of Domestic Violence Act.

2.It is stated by the petitioners that the learned Magistrate issued process mechanically without verifying the domestic incident report based on frivolous allegations made in the complaint. The learned counsel for the petitioners also submits that the first respondent and her husband second respondent got separated in the year 2018 and they have been living in Dubai from the year 2020. The petitioners are residing elsewhere and they never shared household with the first respondent.

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) 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. Having regard to the fact the complaint preferred under Section 12 of 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 it is absolutely necessary. Accordingly, the CMP.No.4796 of 2023 is ordered and connected CMP.No.4794 of 2023 is closed. No costs.

16-12-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To
The Judicial Magistrate
Cum Special Court for Trial of
Domestic Violence Act Cases, Coimbatore.



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