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CRP No. 960 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2025

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THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 960 of 2025 and
CMP.No.5535 and 5537 of 2025**

1. R.Rajkumar

2. E.Ravishankar

3. R.Vanitha

Petitioners

Vs

1. Swapna

2.Rohini Lakshmanan

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records pertaining to the impugned summons issued in DVC.No.97/2024 issued by the learned IX Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners: Mr.K.S.Viswanathan, Senior
Counsel
for M/s.Ali Hassan Khan

For Respondents M/s.Kemprij for R1
R2-No appearance



ORDER

The Civil Revision Petition is filed seeking to quash the summons issued by the learned Magistrate while entertaining the complaint preferred by the 1st respondent under the provisions of Domestic Violence Act.

2. The learned Senior Counsel for the petitioners submitted that the complaint preferred under Section 12 of Domestic Violence Act is predominantly civil in nature. Therefore, the learned magistrate ought not have issued summons to the petitioners and if he is *prima facie* satisfied with the case of the respondent, he should have issued only ordinary notice.

3. Now, it has been settled by various decisions including the decision of full bench of this court in *Arul Daniel and Others Versus Suganya reported in (2022) SCC Online Mad 5435* that the complaint preferred under Section 12 of Domestic Violence Act is predominantly civil in nature. Therefore, the process issued by the learned magistrate shall be treated as a notice. To that extent, I clarify the legal status of process issued by Magistrate. Therefore, if the petitioner fails to appear before Magistrate in response to process, he can only proceed *exparte*, not otherwise.

4. The learned Senior Counsel for the petitioners also submitted that before issuance of notice, the learned Magistrate should have recorded *prima*



facie finding. According to him, in the case on hand, notice has been issued to the petitioners mechanically without recording the *prima facie* satisfaction. If it is the case of the petitioners that the complaint preferred by the 1st Respondent is not at all maintainable and based on the averments contained thereon, the learned Magistrate ought not have issued process to the petitioners, he can very well go before Magistrate and raise preliminary issues.

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 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.

6. 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.

7. As per the full bench decision cited supra, the petitioners are entitled to go before the very same magistrate and raise preliminary issues.

8. Accordingly, the Civil Revision petition stands dismissed with liberty



to the petitioners to raise all preliminary issues before the concerned Magistrate.

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9. 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. Consequently, the connected miscellaneous petitions are closed. No costs.

17-12-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

The IX Metropolitan Magistrate,
Saidapet, Chennai.



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S.SOUNTHAR J.

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