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C.R.P. No.1702 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

C.R.P No.1702 of 2023

and

C.M.P.No.11116 of 2023

1. P.K.Senthil Kumar

2. K.Amaravathi

3. P.Karuppathevar

...Petitioner(s)

Vs

U.Devi

...Respondent(s)

PRAYER: Revision filed under Article 227 of the Constitution of India to quash D.V.C.No.8 of 2023 pending on the file of the learned Metropolitan Magistrate No.XXIII, Saidapet.

For Petitioner(s): No appearance

For Respondent(s): Ms.C.Alagu Bhavani
for Mr.C.Rajasekharan



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ORDER

This Civil Revision Petition is filed seeking to quash the complaint preferred by the respondent under the provisions of Domestic Violence Act in D.V.C.No.8 of 2023 pending on the file of the learned Metropolitan Magistrate No.XXIII, Saidapet.

2.The learned counsel appearing for the petitioners vehemently argued that the averments made in the complaint are fraudulent and vexatious one. The complaint has been preferred nearly about ten years from the date of the occurrence. The main intention of the respondent is to harass the petitioners, who are all husband, mother-in-law and father-in-law of the 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 Judicial Magistrate can go before the very same Judicial 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 Protection of Women from Domestic Violence Act, 2005. 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 categorical pronouncement of law by the Full Bench of this Court that a person aggrieved by issuance of process can very well approach the concerned Judicial Magistrate raising preliminary issues, this Court is not inclined to exercise its supervisory power under Article 227 of the Constitution of India. When the petitioners have effective remedy before the



concerned Magistrate, as held by the Hon'ble Apex Court in the case of ***Virudhunagar Nadargal Dharma Paripalana Shabha Vs Tuticorin Educational Society*** reported in ***MANU/SC/1365/2019***, this Court need not exercise its supervisory power.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioners to file application before the concerned Magistrate raising Preliminary issues. If any such petition is filed, the same shall be disposed of on its own merits as expeditiously as possible.

6. Taking into consideration the petitioners 2 and 3 are aged parents-in-law of the respondent/claimant, this Court is inclined to dispense with their personal appearance before the learned Metropolitan Magistrate No. XXIII, Saidapet, Chennai, unless their personal appearance is essentially required. No costs. Consequently, connected Miscellaneous Petition is closed.

01-12-2025

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

To



1.The Metropolitan Magistrate No.XXIII,
Saidapet.

2.The Section Officer,
V.R. Section,
Madras High Court.



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S.SOUNTHAR, J.

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