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C.R.P. No.1706 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.1706 of 2023

and

C.M.P.Nos.11121 and 11120 of 2023

1. B.Nachiyar

2. B. Kalaiselvi

...Petitioner(s)/Respondents 2 and 3

Vs

1. A. Kowsalya

...1st Respondent/Petitioner

2.B. Natarajan

...2nd Respondent/1st Respondent

PRAYER: Revision filed under Article 227 of the Constitution of India to call for the records relating to the petition in D.V.A.No.1 of 2023 on the file of the learned Judicial Magistrate No.III, Tiruppur District and to quash the same.

For Petitioner(s) : Mr.M.Dinesh

For Respondent(s): No appearance



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ORDER

This Civil Revision Petition is filed to quash the complaint preferred by the 1st respondent under the provisions of Protection of Women from Domestic Violence Act, 2005, in D.V.A.No.1 of 2023 on the file of the learned Judicial Magistrate No.III, Tiruppur District.

2.The learned counsel appearing for the petitioners would submit that the 1st petitioner is the mother-in-law of the 1st respondent and the 2nd petitioner is the sister -in-law of the 1st respondent. The 2nd petitioner is living separately and the petitioners are unnecessarily roped in the present case. Therefore, the complaint has been preferred by the 1st respondent is abuse of process of Court.

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 it's supervisory power.

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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. Since the complaint under the Domestic Violence Act is predominantly civil in nature, this Court is inclined to dispense with the personal appearance of the petitioners before the Magistrate, unless their presence is absolutely necessary. Consequently, connected Miscellaneous Petitions are closed. No costs.

01-12-2025

mps

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Judicial Magistrate No.III,
Tiruppur District.

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



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S.SOUNTHAR, J.

mps

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