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CRP. PD. No.1233 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:03.07.2025

Pronounced on:18.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. PD. No.1233 of 2025

and

CMP. Nos. 7447 & 7450 of 2025

1.Mr.Sabeer
2.Mrs.Saira Banu
3.Mrs.Sajitha Banu

Petitioner(s)

Vs

Mrs.K.S.Shapna

Respondent(s)

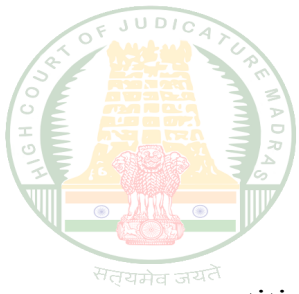
PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Petition in D.V.A. No.114 of 2024, on the file of the Special Magistrate (Special Court to try cases filed under Protection of Women from Domestic Violence Act), Coimbatore.

For Petitioners : Mr.G.K.Muthukumar

For Respondent : Mr.I.Abdul Basith

ORDER

The petitioners seek to set aside the petition in DVA. No.114 of 2024 on the file of the Special Magistrate (Special Court to try cases filed under Protection of Women from Domestic Violence Act), Coimbatore.



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2. I have heard Mr.G.K.Muthukumar, learned counsel for the petitioners and Mr.I Abdul Basith, learned counsel for the respondent.

3. Mr.G.K.Muthukumar, learned counsel 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, thereby necessitating the petitioners to move this Court.

4. The learned counsel for the petitioners, Mr.G.K.Muthukumar, would also take me through the complaint itself and contend that there are no specific allegations against the particular petitioners, especially against the mother in law and the sister in law and manifest injustice has been caused because of the cognizance of the complaint against these petitioners. He would also refer to Khula document dated 15.11.2023 as well as an earlier letter addressed by the respondent/wife to the Jamath on 09.07.2023 and referring to these documents, Mr.G.K.Muthukumar, would contend that in both these documents, there is absolutely no



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whisper about any acts of domestic violence and even subsequent to the filing of Domestic Violence Case, the respondent has filed a petition for divorce where the grounds alleged are entirely different from what has been stated in the Khula.

5. The learned counsel for the petitioners would therefore contend that when no specific overt Act of domestic violence has been pleaded, specifically against the petitioners, moreso, against the mother and sister of the first petitioner, the Trial Court ought not to have taken on file the complaint in the first place. He would further state that only in order to harass the petitioners, the Domestic Violence Complaint has been lodged. He would also state that there is an inordinate and unexplained delay in filing the complaint and viewing the same with surrounding circumstances, the conduct of the respondent clearly indicates that she is attempting to arm twist the first petitioner to accept for dissolution of the marriage.

6. The learned counsel for the petitioners Mr.G.K.Muthukumar, would also state that the averment insofar as 22 ½ sovereigns of



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jewellery, the respondent has left the same in a cupboard in the house, key of which is only with the respondent and therefore, the respondent can always open the cupboard/locker and retrieve her jewellery. The petitioners have asserted that they are not having possession of the jewellery and would further contend that the first petitioner is willing to live with the respondent and the matter can be amicably resolved, if the parties are referred to Mediation.

7. He would also place reliance on the decisions of the Full Bench of this Court in the case of *Arul Daniel and Others Vs. Suganya*, reported in (2022) 3 MWN (CrL.) 539 as well as the decision of the Hon'ble Supreme Court in the case of *Shaurabh Kumar Tripathi Vs. Vidhi Raval*, in 2025 INSC 734.

8. Per contra, Mr.Abdul Basith , learned counsel for the respondent would state that the petitioners are residing in one shared household admittedly, that is under one roof and when allegations are made against all the petitioners, the matter certainly requires a trial and therefore, the complaint cannot be struck off as not maintainable. He would also rely



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on the decision of the Full Bench of *Arul Daniel's* case (referred herein supra) in support of the contentions besides order of this Court in *Nagarajan and others Vs. N.Umajothi*, in *CRP. No.1865 of 2023*.

9. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the typedset of papers, the decisions on which reliance is placed on by the learned counsel on either side as well as the Domestic Violence Complaint itself in particular.

10. The respondent is the wife of the first petitioner; the second petitioner is the mother of the first petitioner and the third petitioner is the sister of the first petitioner. As rightly contended by the learned counsel for the respondent, the parties live under one roof. The first petitioner and the respondent got married on 11.06.2022. Disputes have admittedly arisen between the first petitioner and the respondent and the respondent has been living separately from May 2023. It is therefore, contended that there cannot be a complaint of Domestic Violence in May 2023. However, on perusal of the Domestic Violence Complaint, it is



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seen that the complaint specifically alleged that the respondent has been forced to part with, 26 sovereigns of jewellery as dowry even at the time of marriage. It is also stated that the parties lived as a joint family and the petitioner has narrated various incidents of domestic violence specifically referring to dates, 08.07.2022, 10.07.2022, 11.07.2022, 16.07.2022 and 11.11.2022 etc.

11. Even though the allegations are not specific to any of the petitioners, it is seen that the allegations are made against all the petitioners, the respondent clearly alleging that the petitioners have caused domestic violence. There is also specific reference with regard to 22 ½ sovereigns of gold jewellery. These factual allegations cannot be decided in a summary manner. Parties would have to necessarily lead oral and documentary evidence before the learned Magistrate before the Magistrate comes to any conclusion as to whether the acts of domestic violence have been established it or not.

12. Much reliance has been placed in *Arul Daniel's* case (referred herein supra). After elaborately discussing the legal position, the Full



Bench constituted for an authoritative pronouncement, framed the following five questions:

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“(i) Whether the proceedings initiated under the provisions of the 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 Full Bench has answered the above questions holding that a petition under Section 482 CrPC, 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. In paragraph No.87 of the Full Bench Judgment, it has been clarified that any respondent in the 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.

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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.

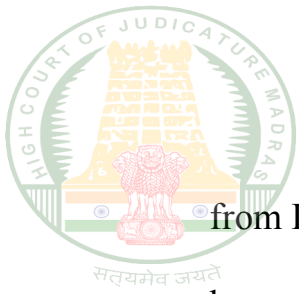
15. Having already noticed that the date specific allegations have been made in the Domestic Violence Case and all the petitioners have been accused of acts of domestic violence, these matters can be decided



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only after the parties are called upon to lead evidence oral and documentary. The limited power available to this Court to interfere is only on the ground that there is any jurisdictional error committed by the Magistrate or manifest injustice being caused. No such patent lack of jurisdiction has been shown by the petitioners warranting this Court to exercise extraordinary power available under Article 227 of the Constitution of India. There is also nothing to show that there has been a manifest or substantial injustice caused to the petitioners. In fact, the answer to the grounds raised by the revision petitioner are available in the Full Bench Judgment itself, where it is clearly stated that the aggrieved parties can approach the Magistrate under Section 25 with a further right of appeal also being available under Section 29 of the Act itself.

16. In *Shaurabh Kumar Tripathi*' case (referred herein supra), the Hon'ble Supreme Court has examined the scope of Section 482 of the CrPC and held that the High Court can exercise power under Section 482 of the CrPC (now 528 of BNSS) for quashing the proceedings emanating from an Application under Section 12(1) of the Protection of Women



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from Domestic Violence Act, 2005. However, the Hon'ble Supreme Court has also held that the High Courts have to exercise caution and circumspection when dealing with an Application to quash a complaint under Section 12(1) of the DV Act, holding that interference is warranted only in the case of gross illegality or injustice. The Hon'ble Supreme Court has held that a petition under Section 482 of CrPC and now 528 BNSS would be maintainable seeking to quash the domestic violence complaint under Section 12(1). This by itself has not take away the power of the High Court under Article 227 to interfere, however, to be exercised only when there is patent lack of jurisdiction shown by the revision petitioner.

17. In *Nagarajan's* case, (referred herein supra), this Court held that the mere issuance of notice to the respondent is not a ground to approach the High Court, invoking Article 227 of the Constitution of India, seeking to strike of the petition itself and the petitioners have to approach only the Magistrate Court concerned and raise the issue of maintainability before the Magistrate. In fact, this Court also relied on the decision of the Hon'ble Supreme Court in *Kunapareddy @ Nookala*



Shanka Balaji Vs. Kunapareddy Swarna Kumari and another, reported in 2016 (11) SCC 774 to conclude that the revision under Article 227 of the Constitution of India is not a remedy for the respondents who have been issued notices under the DV Act.

18. In view of the above, I have no hesitation in holding 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. Ofcourse, 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.

19. In view of the above, I do not find any merit in the revision. 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 respondents for all hearing should not be normally insisted upon and therefore, personal appearance of the petitioners cannot be insisted upon by the learned Special Magistrate (Special Court to try cases filed under Protection of Women from Domestic Violence Act), Coimbatore and



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therefore, a direction is issued to the Mahila Court to permit the petitioners to appear, either in person or through duly authorised 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.

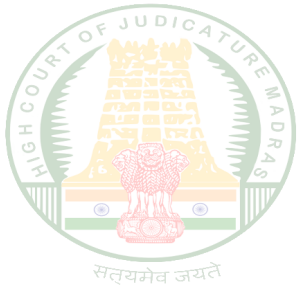
20. With the above direction, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petitions are dismissed. No costs.

18.07.2025

rkp
Index : Yes
Internet : Yes

To:

The Special Magistrate (Special Court to try cases filed under Protection of Women from Domestic Violence Act), Coimbatore



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P.B.BALAJI, J.,

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Pre-delivery order in
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