



CRP.No.1882 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 01.08.2025

Order pronounced on : 14.08.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.1882 of 2024
& CMP.Nos.9901 & 9903 of 2024

1.G.Jawahar
2.P.Gopal

..Petitioners

Vs.

T.Sangeetha

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records of the complaint made in D.V.C.No.19 of 2022, pending on the file of the Additional Mahila Court, Salem, Salem District.

For Petitioners : Mr.M.R.Jothimanian

For Respondent : Mr.R.Marudhachalamurthy

ORDER

The husband and father-in-law of the respondent have filed the present revision, seeking to strike off the domestic violence complaint in D.V.C.No.19 of 2022 on the file of the Additional Mahila Court, Salem, Salem District.

2.I have heard Mr.M.R.Jothimanian, learned counsel for the petitioners



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and Mr.R.Marudhachalamurthy, learned counsel for the respondent.

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3.The learned counsel for the petitioners inviting my attention to the averments in the domestic violence complaint would contend that the domestic violence complaint initiated by the respondent is a gross abuse of process and only in order to harass the petitioners. Taking me through the complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005, he would contend that the allegations that have been made in the complaint do not even warrant cognizance as any kind of abuse that is contemplated under Section 3 of the said Act. Moreover, he would state that the respondent, even in the complaint, has clearly admitted to the fact that she stayed in the matrimonial home only for a period of 15 days from the date of marriage and after lapse of more than 3 ½ years, the complaint has been filed with totally false and vexatious allegations. The learned counsel for the petitioner would place reliance on the decision of the Hon'ble Supreme Court in *Shaurabh Kumar Tripathi Vs. Vidhi Rawal*, reported in 2025 SCC Online SC 1158 and my decision in *Prasad Gangaraju and Others Vs. Swetharaj*, reported in 2025 SCC Online Mad 3295, in support of his contentions.

4.Per contra, the learned counsel for the respondent would state that



firstly there is no limitation for initiating the complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005 and secondly he would state that there is a remedy available to the petitioners even before the Magistrate to seek modification of the orders passed and also seek for a remedy under Act 43 of 2005 and move the Magistrate concerned to apply for discharge. Inviting my attention to specific allegations in the complaint made against both the petitioners, learned counsel for the respondent would contend that there is no scope for striking off the domestic violence complaint, that too, exercising powers under Article 227 of Constitution of India. In this regard, he would place reliance on the judgment of the Hon'ble Full Bench of this Court in *Arul Daniel and Others Vs. J.C.Hemachand and Others*, reported in 2022 SCC Online Mad 5435 and *P.Ganesan Vs. M.Revathy Prema Rubarani*, in CRP.(PD)(MD).No.909 of 2022 dated 30.11.2022, in support of his contentions.

5.I have carefully considered the submissions advanced by the learned counsel on either side.

6.The marriage between the 1st petitioner and the respondent is admitted, the same having been performed/celebrated on 06.09.2018. There is no dispute



with regard to the relationship between the parties to the revision. Admittedly, even according to the respondent, within 15 days of the date of marriage, misunderstanding arose between the spouses and the respondent left the matrimonial home, after living with the 1st petitioner barely for 15 days. The petitioner, in paragraph Nos.2 and 3, has made specific allegations against the 1st petitioner/husband and the allegations are clearly falling within the ambit of abuse set out and defined under Section 3 of the Act 43 of 2005, namely physical abuse, verbal as well as emotional abuse. In paragraph No.4, an allegation is made against the 2nd petitioner, stating that the 2nd petitioner has suppressed the health issues of the 1st petitioner and given the 1st petitioner in marriage to the respondent.

7.It is also admitted that the respondent has filed FCOP.No.556 of 2019 seeking divorce before the Family Court, Salem, and the same is pending. In the prayer in the domestic violence complaint, the respondent has sought for residence for herself under Section 19 of the Act, a sum of Rs.60,000/- for maintenance from the 1st petitioner, return of her articles and a sum of Rs.1 crore as damages from both the petitioners under Section 22 of the Act. In the light of the allegations made in the paragraph Nos.2 to 4 of the domestic violence complaint, I do not see how this Court can exercise powers under



Article 227 of Constitution of India and strike off the domestic violence complaint. The parties would have to necessarily undergo trial and prove/disprove their respective contentions. When triable issues arise and there is no patent lack of jurisdiction that is shown, I am not in a position to agree with the submissions of Mr.M.R.Jothimanian, learned counsel for the petitioners that the domestic violence complaint is liable to be struck off.

8.Coming to the decisions relied on by the learned counsel on either side, in *Shaurabh Kumar Tripathi's case*, the Hon'ble Supreme Court has held that Section 482 of the Cr.P.C and now Section 528 of BNSS, 2023, can be invoked for quashing proceedings initiated under Act 43 of 2005. However, even in the said decision, the Hon'ble Supreme Court has held that the High Courts should exercise caution and circumspection when dealing with an application under Section 12(1) of the Act 43 of 2005 since interference would be warranted only in the case of gross illegality or injustice. I do not see any such gross illegality or injustice having been caused to the revision petitioners in the present case.

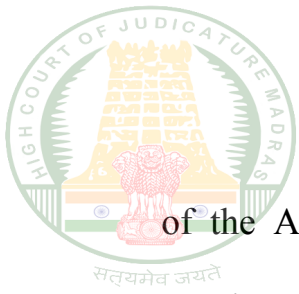
9.In the decision in *Prasad Gangaraju's case*, I had an occasion to strike off a domestic violence complaint filed by the wife. However, on the facts of



the said case, I found that the complaint was not filed by the wife but through her sister and there was no jurisdiction for the Magistrate to entertain the complaint. Additionally, it was a case where the after voluntarily agreeing for mutual consent divorce before the competent Court in USA, the wife had initiated the complaint, without any cause of action. Therefore, the said decision also would not come to the aid of the revision petitioners in the present case.

10.In *P.Ganesan's case*, this Court relying on the decision of the Hon'ble Supreme Court in *Kunapareddy Vs. Kunapareddy Swarna Kumari*, reported in (2016) 11 SCC 774, held that any aggrieved party can always approach the Magistrate to delete his name and the revision to strike off the domestic violence complaint was not maintainable. In the Full Bench decision of this Court in *Arul Daniel's case*, also the Hon'ble Full Bench held that there is remedy available to the respondents in a domestic violence complaint to approach the Magistrate and seek discharge and High Court should not, as a measure of self imposed restriction, entertain strike off petition under Article 227 of Constitution of India.

11.In view of the foregoing, I do not find any merit in the revision. It is always open to the petitioners to approach the Magistrate invoking Section 25



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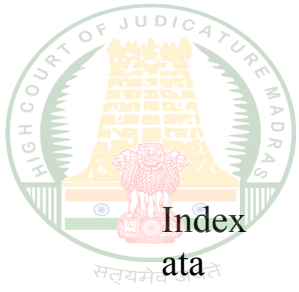
of the Act and seek discharge or modification of any orders passed by the Magistrate. In fact, any such order passed under Section 25 of the Act is also appealable under Section 29 of the Act. Therefore, unless there is patent lack of jurisdiction or gross injustice being caused, this Court would not normally interfere under Article 227 of Constitution of India. In the light of the above, I do not see any merits in the revision.

12.However, as held by the Full Bench of this Court, the Magistrate should not insist upon the physical appearance of the petitioners in the domestic violence complaint, unless their presence is absolutely necessary. In view of the above, I hereby dispense with the presence of the petitioners before the Additional Mahila Court, Salem, Salem District and they shall be entitled to be represented through counsel, unless the Magistrate finds any compelling reasons, for reasons to be recorded in writing, to require the presence of the petitioners for any particular hearings.

13.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

14.08.2025

Speaking/Non-speaking order



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Index : Yes/No
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To

The Additional Mahila Court, Salem, Salem District.

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Pre-delivery order made in
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