



CRP.No.2706 of 2025

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.2706 of 2025
& CMP.No.15335 of 2025

1.V.Veeramani
2.V.Vijaya
3.K.Veerrapan
4.Dr.V.Velmurugan
5.Nirosha
6.S.Manivannan
7.V.Vaidegi

..Petitioners

Vs.

A.Vaishnavi

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off D.V.C.No.17 of 2025 against the petitioners 1 to 7 on the file of the Judicial Magistrate, Mahila Court (Magistrate Level), Pondicherry.

For Petitioners : Mr.A.V.Somasundaram
Senior Counsel
for Ms.S.Uma Nachiar

For Respondent : Mr.C.Prabakaran

ORDER



This revision has been filed under Article 227 of Constitution of India, seeking to strike off the domestic violence complaint in D.V.C.No.17 of 2025 pending on the file of the learned Judicial Magistrate Mahila Court (Magistrate level), Pondicherry.

2.I have heard Mr.A.V.Somasundaram, learned Senior Counsel for Ms.S.Uma Nachiar, learned counsel for the petitioners and Mr.C.Prabakaran, learned counsel for the respondent.

3.The learned Senior Counsel for the petitioners would firstly contend that the respondent never residing in a shared household with the petitioners and the mandatory requirements of lodging a complaint in the prescribed form provided under the Protection of Women from Domestic Violence Act of 2005 (Act 43 of 2005) have also not been followed. The rules prescribed under the Act have also been flouted and therefore the domestic violence complaint itself is not maintainable. He would also invite my specific attention to the HMOP filed by the husband, pursuant to which alone, the respondent has chosen to file the domestic violence complaint, after a lapse of two months with totally false, baseless and vexatious allegations, according to the petitioners. It is also specifically pointed out by the learned Senior Counsel that when the jewellery



belonging to the respondent was returned even on 19.11.2024 and the same was acknowledged in writing on the side of the respondent, mischievously a relief for return of jewellery has been sought for even in the complaint under Section 12 of the Act 43 of 2005. He would also state that except the father-in-law and the mother-in-law, none of the other petitioners, namely petitioners 4 to 7 are even residing in the very same city for the respondent to rope them in also, in the domestic violence complaint.

4.Further, contending that the respondent is admittedly employed, it is only the mother-in-law who takes care of the kitchen and the family, being at home and the father-in-law also being very aged, in order to harass the entire family of the husband, the domestic violence complaint has been filed. He would therefore state that the Magistrate, without proper application of mind, has issued notice to all the petitioners. The learned Senior Counsel would place reliance on the decision of the Hon'ble Supreme Court in *Shaurabh Kumar Tripathi Vs. Vidhi Rawal*, reported in 2025 INSC 734 as well as the Full Bench judgment of this Court in *Arul Daniel and Others Vs. J.C.Hemachand and Others* dated 17.11.2022, in support of his contentions.

5.Per contra, the learned counsel for the respondent/wife would submit,



on instructions from the respondent, that the claim of the petitioners that the jewellery was returned even earlier to the filing of the domestic violence complaint is factually correct and by inadvertence, the prayer has been included in the domestic violence complaint. Insofar as the striking off the prayer, the learned counsel for the respondent would submit that these matters are to be decided only after trial and there is no case made out for striking off the complaint under Article 227 of Constitution of India which power should be sparingly exercised. In this regard, the learned counsel for the respondent would place reliance on the decision of the Hon'ble Supreme Court in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others Vs. Tuticorin Educational Society and Others*, reported in 2019 (9) SCC 538, where the Hon'ble Supreme Court has held that as a self imposed restriction, the High Court should not interfere when alternate remedy available to the parties.

6.I have carefully considered the submissions advanced by the learned Senior Counsel for the petitioners and the learned counsel for the respondent.

7.Insofar as the argument of the learned Senior Counsel for the petitioners with regard to the complaint being not conforming to Form – 2 of rules, which require details of previous litigation to be stated and the respondent having



suppressed the HMOP filed by the 1st petitioner, is guilty of wilful suppression of material facts. I find force in the submissions of the learned Senior Counsel.

8. Firstly, the very purpose of requiring details of previous litigation to be set out in the application under Section 12 is only to enable the Magistrate to form a *prima facie* opinion and come to a decision with regard to whether notice will have to be issued to the respondent in the domestic violence complaint. Therefore, the non furnishing of details of the HMOP filed by the revision petitioners which were admittedly within the knowledge of the respondent at the time of filing of the domestic violence complaint, in my considered opinion, is fatal to the case of the respondent. Secondly, as rightly pointed out by the learned Senior Counsel for the petitioners, one of the reliefs sought for in the domestic violence complaint is for return of jewellery. Having not only taken back her entire jewellery, but also having acknowledged the same in writing even prior to the filing of the domestic violence complaint, still the respondent has chosen to seek a relief for return of her jewellery. This only evidences the malafide intention on the part of the respondent to harass the husband and his relatives. Thirdly, the petitioners 4 to 7 are not even residing in a shared household, but various other places, including other cities. There is not even a specific allegation as to how these petitioners 4 to 7 are also liable to face



prosecution under Section 12 of the Act 43 of 2005.

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9.The only allegation that is made is that the petitioners 4 to 7 came down to the matrimonial home and supported the petitioners 1 to 3. However, no particulars of the said visit of the petitioners 4 to 7 or any other details are set out. Therefore, such generic and vague allegations cannot be the foundation for taking cognizance of the domestic violence complaint against the petitioners 4 to 7. Further, the domestic violence complaint appears to be a counter blast to the divorce proceedings initiated by the husband. On a conjoint and meaningful reading of the above complaint, I do not find the domestic violence complaint being maintainable as prayed. The Magistrate ought not to have taken cognizance of the complaint.

10.The Hon'ble Full Bench of this Court has clearly laid down that it is not mandatory for the Magistrate to issue notice to all parties arrayed as respondents and that the Magistrate should apply his mind in deciding as to which respondents' notice would have to be issued and wherever notices are issued, especially to relatives and third parties to the matrimonial relationship, then the Magistrate is required to set out reasons impelling the Magistrate to issue notice to such parties. This exercise has also not been complied with by



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the Magistrate in the present case.

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11. In view of the above, I am constrained to interfere under Article 227 of Constitution of India. The domestic violence complaint is struck off. However, the respondent, subject to disclosing full and material particulars and making out a specific case of 'abuse' falling within the four corners of Section 3 of the Act, would be at liberty to file a fresh domestic violence complaint. It shall be incumbent on the Magistrate to apply his mind independently before ordering notice to any of the respondents.

12. With the above liberty, the Civil Revision Petition is allowed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

14.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The Judicial Magistrate, Mahila Court (Magistrate Level), Pondicherry.

P.B.BALAJI.J.

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Pre-delivery order made in
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