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CRP.No.1763 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1763 of 2023 and
CMP.No.11439 of 2023

1. Mariyadoss
2. Jansi Lucas Mari

... Petitioners

Vs.

1. Rekha @ Roselin Marry
2. Minor Kavin
3. Minor R.Perjwan
(respondents 2 and 3 are
represented by mother cum guardian
1st respondent)
4. Raj @ Oliviyer Raj

...Respondents

PRAYER : Civil Revision Petition filed Article 227 of Constitution of India, praying to strike the complaint in D.V.No.2/2023 pending on the file of the learned District Munsif and Judicial Magistrate, Nanillam as against the petitioners.

For Petitioner	: Mr.P.Paramasivadoss
For R1 to R3	: Served (through lower court counsel)
For R4	: Served – No appearance



ORDER

The civil revision petition has been filed to strike off the complaint preferred by the respondents 1 to 3 under the provisions of Domestic Violence Act.

2. The petitioners are father-in-law and sister-in-law of the 1st respondent.

3. It is stated by the learned counsel for the petitioners that the averments contained in the complaint preferred by the respondents 1 to 3 do not disclose any cause of action against the petitioners. Therefore, the learned Magistrate ought not to have issued process against the petitioners.

4. 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 Magistrate can go before the very same 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 Domestic Violence Act. 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.*

5. In view of the availability of alternative remedy before Magistrate, as held by Full Bench in **Arul Daniel** case, this Court is not inclined to exercise supervisory power under Article 227 of the Constitution of India. Further, the



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Hon'ble Apex Court in the case of *Virudhunagar Nadargal Dharma*

Paripalana Shabha Vs Tuticorin Educational Society reported in

MANU/SC/1365/2019 held that availability of alternative remedy before regular Courts, is near total bar for exercise of supervisory power by High Court. Hence, I am not inclined to interfere in revision.

6. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioners to approach the concerned Magistrate for getting appropriate remedy in terms of order passed in *Arul Daniel* case cited supra.

7. Having regard to the fact the complaint preferred under Section 12 of Domestic Violence Act is predominantly civil in nature, this Court is inclined to dispense with the personal appearance of the petitioners before the learned Magistrate unless it is absolutely necessary. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

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To
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The District Munsif and Judicial Magistrate,
Nanillam



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