



C.R.P.No.2801 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2801 of 2023
and
C.M.P.No.17292 of 2023

1.S.Ashok Kumar

2.A.Tamizharasi

3.A.Naveen

... Petitioners

vs.

1.S.Madhuvanthi

2.Guruprasad

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the complaint made in D.V.C.No.7 of 2023, on the file of the learned Judicial Magistrate cum Additional Mahila Court, Namakkal.

For Petitioners : Mr.J.Jayan
for M/s.W.Camyles Gandhi



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For R1 : Mr.B.Baskar

For R2 : M/s.Pazhashankar

ORDER

The Civil Revision Petition is filed seeking to strike off the complaint preferred by the 1st respondent under the provisions of Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.7 of 2023 on the file of the learned Judicial Magistrate cum Additional Mahila Court, Namakkal.

2. The learned counsel appearing for the petitioners would submit that there is no serious allegation against the petitioners in the complaint preferred by the 1st respondent and hence, the Judicial Magistrate ought not have issued process against the petitioners.

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.”



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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 and hence, this Court is not inclined to exercise its supervisory power under Article 227 of the Constitution of India. When petitioners have remedy before Regular 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 its supervisory jurisdiction.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioners to approach the very same Judicial Magistrate raising preliminary issues. If any such application is filed and preliminary issue with regard to the maintainability of the petition against revision petitioners is raised, the Judicial Magistrate cum Additional Mahila Court, Namakkal, shall consider and dispose of the same as expeditiously as possible.

6. The complaint preferred by the 1st respondent seeking various orders under Sections 12, 19(8), 19(1)(f), 20 and 22 of the Protection of Women from Domestic Violence Act, 2005, are predominantly civil in



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nature and therefore, this Court is inclined to dispense with the personal appearance of the petitioners before the Judicial Magistrate cum Additional Mahila Court, Namakkal, unless their presence is absolutely necessary. No costs. Consequently, the connected civil miscellaneous petition is closed.

19.12.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Judicial Magistrate cum Additional Mahila Court,
Namakkal.



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S.SOUNTHAR, J.

dm

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