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C.R.P.No.2696 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2696 of 2023

and

C.M.P.No.16631 of 2023

1. Keerthana,
2. Arun Kumar

... Petitioners

vs.

1. Keerthana
2. Thiyagu
3. Karunagaran
4. Matheswari

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to quash the entire proceedings against the petitioners relating to D.V.C.No.5 of 2023 now pending on the file of the learned Judicial Magistrate, Omalur.

For Petitioner : Mr.R.Rajesh Vivekananthan

For Respondents : R1 to R4 [No ready in notice]

ORDER

This Civil Revision Petition is filed seeking to quash the complaint preferred by the first respondent against the petitioners and the other respondents under the provisions of the Protection of Women from



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Domestic Violence Act, 2005 pending on the file of the Judicial Magistrate, Omalur.

2. The learned counsel for the petitioners would submit that the allegations made in the complaint preferred by the first respondent are not sufficient to issue process against the petitioners as the ingredients of the Domestic Violence Act have not been satisfied.

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



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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 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 petitioner has 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.



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6. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to approach the very same Judicial Magistrate viz., Judicial Magistrate, Omalur 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 shall consider the same and dispose of the same as expeditiously as possible. Taking into consideration the allegations made in the complaint, the personal appearance of the petitioners is dispensed with before the learned Judicial Magistrate, Omalur, unless their personal appearance is absolutely necessary. No costs. Consequently, connected civil miscellaneous petitions are closed.

18.12.2025

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

To

1. The Judicial Magistrate Omalur.
2. V.R.Section,
High Court of Madras.



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S.SOUNTHAR, J.

mp

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