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CRP.No.2788 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2788 of 2024 and
CMP.Nos.14791 and 14792 of 2024

- 1.Ganesan
- 2.Selvi
3. Thanraj
4. Periyasamy @ Senthil
5. Manjula

... Petitioners

Vs.

1. Vaidhegi
2. Vinothkumar

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying to call for the records pertaining to the petition in DVC No.15 of 2023 pending on the file of the Learned Judicial Magistrate Court.1, Bhavani and strike out the petitioners name and the same as abuse process of law and quash the same by allowing the present CRP.

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For Petitioner : M/s.T.Muruganantham
For Respondent : Mr.V.Vijayakumar for R1
R2-No appearance

ORDER

The Civil Revision Petition is filed to strike off the complaint preferred by the 1st respondent/ complainant under the provisions of Domestic Violence Act.

2. The first respondent herein preferred a domestic violence complaint against the petitioners and her husband/ 2nd respondent in DVC.No.15 of 2023. After receipt of notice in the complaint, the petitioners have approached this Court seeking to strike off the complaint on the ground that they never lived along with the 1st respondent and hence, there was no shared household.

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 Magistrate can go before the

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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



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(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.

4. 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 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.

5. 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.

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6. 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. Accordingly, the CMP.No.14792 of 2024 is ordered and CMP.No.14791 of 2024 is closed. No costs.

18.11.2025

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes/No
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To

The Judicial Magistrate Court-I, Bhavani.



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S.SOUNTHAR, J.

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