



WEB COPY

CRP No. 2958 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

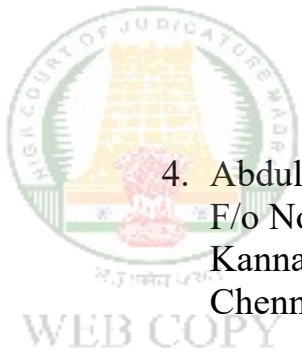
**CRP No. 2958 of 2025
and C.M.P. No.16700 of 2025**

1. S.M.Chan Basha
S/o Late Sheik Masthan,
No.22, Gurunathan Street, Pazhavanthangal,
Chennai 600 114.
2. Rahamath Bhee
W/o S.M.Chan Basha,
No.22, Gurunathan Street,
Pazhavanthangal, Chennai 600 114.

..Petitioner(s)

Vs

1. Yasmin Sultana
W/o Luqhman Shahid Basha
and D/o Mukthiar Basha,
No.7/35, Appavu Naiker Street,
Pallavaram, Chennai 600 043.
2. Luqhman Shahid Basha
S/o S.M.Chan Basha,
No.22, Gurunathan Street,
Pazhavanthangal, Chennai 600 114.
3. THAHIRUNNISA
W/o Abdul Salam, D/o S.M.Chan Basha,
Kannaiya Street, Pazhavanthangal,
Chennai 600 114.



4. Abdul Salam
F/o Not Known,
Kannaiya Street, Pazhavanthangal,
Chennai 600 114.

..Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to strike off the complaint in DVC.No. 21 of 2023 on the file of the District Munsif Cum Judicial Magistrate Court No.II, Tambaram.

For Petitioner(s): M/s.KOWSER SULTHANA I.

For Respondent(s): Mr.R.RADHA PANDIAN (for R1)

No appearance (for R2)

No such persons (for R3 & R4)

ORDER

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

2.The learned counsel for the petitioner would submit that purposefully the 1st respondent filed Domestic Violence case against the petitioners with false allegations. The aim of the 1st respondent is only to harass the petitioners and she has not made out any *prima-facie* case for issuance of process.



3. Taking into consideration the specific allegations in the complaint, this Court is not inclined to go into the merits of the case. It is open to the petitioners to go before the learned Magistrate and raise all preliminary issues as held by the full bench of this Court in ***Arul Daniel and Others Versus Suganya reported in (2022) SCC Online Mad 5435.***

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 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. Consequently, connected Miscellaneous Petition is closed. No costs.

WEB COPY

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.

05-12-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GSA

To

The District Munsif Cum Judicial Magistrate Court No.II,

Tambaram.



WEB COPY

CRP No. 2958 of 2



S.SOUNTHAR, J.

GSA

**CRP No. 2958 of 2025
and C.M.P. No.16700 of 2025**

05-12-2025