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CRP No. 2808 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CRP No. 2808 of 2025
and C.M.P.No.15906 of 2025**

1. GOPALAKRISHNAN
S/o Late Subramani,
Res at No.36/4, Palla Street, Thiru V.Ka.Nagar,
Thiruninravur,
Thiruvallur District.
2. SELVI
W/o Gopala Krishnan,
Res at No.36/4, Palla Street, Thiru V.Ka.Nagar,
Thiruninravur, Thiruvallur District.

..Petitioner(s)

Vs

KUMUTHA
W/o Ganesh Babu, No.26, Krishnan Koil Street,
Thiruninravur, Thiruvallur District.

..Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to pass an order to strike off this petitioners in the proceedings in DVC.No. 14 of 2025 now pending on the file of the Judicial Magistrate Additional Mahila court, Thiruvallur.

For Petitioner(s): Mr.D.SASIKUMAR

For Respondent(s): Mr.K.CHOZHAN



ORDER

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

2.The learned counsel for the petitioners would submit that there is no allegation in the complaint preferred by the respondent regarding any incident of domestic violations and therefore, the Magistrate ought not to have issued process to the petitioners.

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:-

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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.

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.

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GSA



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To

The Judicial Magistrate,

Additional Mahila court,

Thiruvallur.



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S.SOUNTHAR, J.

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