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CRP No. 3162 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CRP No. 3162 of 2025
and C.M.P.No.17581 of 2025**

G.Sudharsan
S/o.V.L.Gopalakrishnan,
No.80 Sudharasanam Main Road,
Thirumalaivasan Nagar, Thirumullaivoyal,
Tiruvallur District - 600 062.

..Petitioner

Vs

C.R.Gayathri
D/o. C.Ramakrishnan,
No.49 Sundaram Street, Suvalpet,
Arakkonam Town and Taluk,
Ranipet District - 631 001.

..Respondent

PRAYER – This Civil Revision Petition filed under Article 227 of Constitution of India to strike off the proceedings in DV Case No.12/2022 on the file of Judicial Magistrate No.I, Arakonam against the petitioner.

For Petitioner: Mr.SURENDAR H

For Respondent: M/s.B.SUNDARAPANDIYAN

ORDER

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



2. The learned counsel for the petitioner would submit that the petitioner and respondent got separated on 25.02.2019. Thereafter, the petitioner filed a petition seeking divorce in H.M.O.P.No.701 of 2019 on the file of the Sub Court, Poonamallee on 10.10.2019. Three years thereafter, the present complaint has been preferred by the respondent as a counter blast to the matrimonial proceedings initiated by the petitioner. It is also submitted that the allegations contained in the complaint are vague and the same are not sufficient to invoke the provisions of Domestic Violence Act.

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 petitioner 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 petitioner 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 petitioner before the learned Magistrate unless it is absolutely necessary.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

The Judicial Magistrate No.I,

Arakonam.



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S.SOUNTHAR, J.

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