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C.R.P.No.3426 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.3426 of 2023**

**and**

**C.M.P.No.21255 of 2023**

K.S.Krishnan,  
S/o.K.Subramani

... Petitioner

vs.

1. R.Keerthana,  
W/o.K.S.Krishnan
2. Minor Akilesh,  
S/o.K.S.Krishnan (Rep. By his mother/guardian 1<sup>st</sup> respondent  
R.Keerthana)
3. K.Subramani,  
S/o.Kulanthaivelu
4. K.S.Krishnaveni,  
W/o.Subramani
5. K.S.Vinoth,  
S/o.K.Subramani
6. E.Bhanumathi,  
W/o.Eswaran

... Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, to strike out the complaint dated 24.03.2022 given under Domestic Violence Act in D.V.O.P.No.38 of 2022 on the file of Additional Mahila Magistrate, Salem with regard to the petitioner concern by allowing the Civil Revision Petition.

For Petitioner : Mr.B.Gopalakrishann  
for Mr.R.Gokulakrishnan



C.R.P.No.3426 of 2023

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## **ORDER**

This Civil Revision Petition is filed seeking to strike off the complaint preferred by the first and second respondents against the petitioner and the other respondents under the provisions of the Protection of Women from Domestic Violence Act, 2005 pending on the file of the Additional Mahila Magistrate, Salem.

2. The learned counsel appearing for the petitioner would submit that the impugned complaint made by the first respondent is only a counterblast for the petitioner's divorce petition. It is also stated that the allegations made in the complaint are not sufficient to issue process against the petitioner.

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

2/6



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.”*

4. 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



C.R.P.No.3426 of 2023

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.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to approach the very same Judicial Magistrate viz., Additional Mahila Magistrate, Salem raising preliminary issues. If any such application is filed and preliminary issue with regard to the maintainability of the petition against revision petitioner 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 petitioner is dispensed with before the Additional Mahila Magistrate, Salem, unless his personal appearance is absolutely necessary. No costs. Consequently, connected civil miscellaneous petition is closed.

**18.12.2025**

Index : Yes / No  
Speaking order : Yes / No  
Neutral Citation : Yes / No  
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C.R.P.No.3426 of 2023

To

1. The Additional Mahila Magistrate, Salem.
2. V.R.Section,  
High Court of Madras.

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C.R.P.No.3426 of 2023

**S.SOUNTHAR, J.**

mp

**C.R.P.No.3426 of 2023**

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