



CRP.(PD)No.4835 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM:

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN
CRP.No.4835 of 2025
and CMP.No.28659 of 2023

1.Dr.R.Senthamarai Kannan

2.Tmt.R.Senthamizhselvi

3.V.Rathidevi

... Petitioners

vs.

Dr.S.Shanmugapriya

.... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike of the case in D.V.C.No.41 of 2020 pending on the file of the Judicial Magistrate, No.III, Puducherry.

For Petitioners : Mr.N.Arumugam

For Respondent : Mr.R.Thiayarajan

ORDER

The 1st petitioner and the respondent are husband and wife and the petitioners 2 and 3 are the mother and sister of the 1st petitioner. Their marriage was solemnized on 29.04.2009 at Gingee, Villupuram District and out of wedlock,



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they begot a female child namely S.Maruthazhini on 18.05.2013. According to the petitioners, after the birth of the said child, the respondent gone to her parental home at Puducherry and thereafter she did not return. The 1st petitioner and the respondent are doctors by profession and he asked her to come to Gingee several times, for which she did not turn up. According to the 1st petitioner, there was no wordy quarrels either with him or with his family members, but the respondent filed a false complaint before the legal services authority, Puducherry in Petition No.262 of 2019 and on the final hearing on 29.10.2019, she had agreed to file mutual consent divorce petition but admittedly she did not come forward for he same. While that being so, the respondent has lodged a complaint before the District Social Welfare officer, Puducherry on 17.02.2020 and on receipt of the notice, the 1st petitioner appeared before the said authority and explained his stand and that being so, the respondent has given the impugned complaint dated 17.06.2020 before the Court, which was numbered as DVC No.41 of 2020 on the file of the Judicial Magistrate No.III, Puducherry. Challenging the same, the petitioners are before this Court with the present civil revision petition.

2. The learned counsel appearing for the petitioners would submit that the



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act of the respondent is in violation of the fundamental rights of the petitioner as filing of the above DVC case seems to be done indiscriminately without any proper enquiry being conducted in the manner known to law.

3. The issue is no longer res integra in view of the Full Bench decision of this Court in the case of **Arul Daniel v. Suganya [(2022) 4 MLJ (Crl.) 561]**, wherein while considering the maintainability of the Civil Revision Petition under Article 227 of the Constitution of India challenging the initiation of proceedings under Domestic Violence Act, the Full Bench of this Court observed as follows:

“76..... 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. “



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4. In the light of the aforecited Full Bench decision of this Court in *Arul Daniel case (supra)*, the petitioners are at liberty to move the concerned Magistrate and raise the issue of maintainability and other preliminary issues. The petitioner is granted liberty to raise all the points raised by him in this revision before the Magistrate.

5. The Civil Revision Petition stands dismissed with the above liberty. No costs. Consequently, connected miscellaneous petition is closed.

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Intex : Yes/No
Internet : Yes/No
Jvm

To
The Judicial Magistrate, No.III,
Puducherry.



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M.JOTHIRAMAN, J.

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