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C.R.P. No. 3789 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

C.R.P.No.3789 of 2025

and

C.M.P.Nos.20152, 20155 and 23687 of 2025

Radha Vaidyanathan,
W/o. Late. Padmanabha Vaidyanathan Iyer,
51, MGR Road,
Kalakshetra Colony,
Besant Nagar,
Chennai -90.

...Petitioner(s)

Vs

1.R.Vidya
D/o. NVS Ramakrishnan,
52, M.G.R Road,
Kalakshetra Colony,
Besant Nagar,
Chennai -90.
now at
27, Beach Road, Kalakshetra Colony, Besant
Nagar,
Chennai - 90.

2.Anand Vaidyanathan,
S/o. Late. Padmanabha Vaidyanathan Iyer,
51, MGR Road, Kalakshetra Colony,
Besant Nagar,
Chennai 90.

...Respondent(s)



PRAYER: Petition filed under Article 227 of the Constitution of India to set aside the entire proceedings in D.V.C. No. 18 of 2022 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner(s): Ms.Geeta Ramaseshan

For Respondent(s): Mr.V. Raghavachari,
Senior Counsel
for Mr.A.Abdul Rahim
for R1

Not ready notice regarding R2

ORDER

This Civil Revision Petition is filed seeking to set aside the entire proceedings preferred by the first respondent/wife under the provisions of Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.18 of 2022 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

2.The second respondent is the son of the revision petitioner herein and husband of the first respondent. The first respondent filed the above complaint under the provisions of the Domestic Violence Act against the petitioner and the



second respondent.

3.The learned counsel for the revision petitioner submits that, in the above said complaint, there is no serious allegations made against the revision petitioner herein, who is the mother-in-law of the first respondent, and hence, the same are not sufficient to take cognizance by the Magistrate under the provisions of Domestic Violence Act. She also submits that the second respondent was diagnosed with mental illness and not in a position to appear before the learned Magistrate for facing trial.

4.The Full Bench of this Court in the case of *Arul Daniel and Others Vs. 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 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 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, this Court is not inclined to exercise its supervisory power under Article 227 of the Constitution of India. When effective remedy is available before Magistrate, this Court is not inclined to exercise its supervisory power 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***.



6. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to approach the very same Judicial Magistrate raising preliminary issues. Since it is stated that the second respondent was diagnosed with mental illness and not in a position to appear before the learned Magistrate, it is always open to the revision petitioner to file appropriate application before the Magistrate mentioning the present status of the second respondent. If any such application is filed and preliminary issue with regard to the maintainability of complaint is raised, the Judicial Magistrate shall consider and dispose of the same as expeditiously as possible.

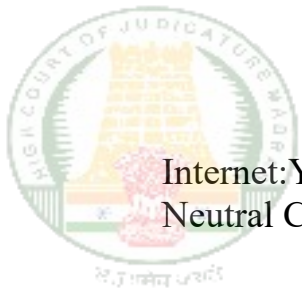
7. The complaint preferred by the first respondent seeking various orders under Section 12 read with Sections 18, 19, 20 and 22 of Domestic Violence Act are predominantly civil in nature and therefore, this Court is inclined to dispense with the personal appearance of the petitioner before the learned Judicial Magistrate, unless his presence is absolutely necessary. No costs. Consequently, the connected civil miscellaneous petitions are closed.

01-12-2025

mps

Index: Yes/No

Speaking/Non-speaking order



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Internet: Yes

Neutral Citation: Yes/No

To

1. The XVIII Metropolitan Magistrate,
Saidapet,
Chennai.

2. The Section Officer,
V.R. Section,
Madras High Court.



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S.SOUNTHAR, J.

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