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CRP.No.5626 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5626 of 2025 and
CMP.Nos.28177 and 28178 of 2025

A.Check Alavoudine

... Petitioner

Vs.

Barakathunnissa

...Respondent

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying, to call for the records pertaining to the proceedings made in DVC.No.606/2024 before the Learned Judicial Magistrate, Mahila Court, Puducherry and set aside the same in so far against this petitioner are concerned by allowing the CRP.

For Petitioners

: Mr.S.K.Syed Eliyas



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ORDER

The Civil Revision Petition is filed challenging the initiation of proceedings under the provisions of the Domestic Violence Act in DVC.No. 606 of 2024.

2. It is the case of the petitioner that the present domestic violence complaint has been made by the respondent/ wife as a counter blast to the proceedings initiated by the petitioner in OS.No.14 of 2022 on the file of Family Court, Karaikal for dissolution of the marriage. It is further stated that the marriage was dissolved by order dated 02-12-2024 and hence, the proceedings initiated by the respondent is only an abuse of process of law.

3. It is seen from the records that the present complaint has been preferred by the respondent/wife even before disposal of original suit filed by the petitioner in OS.No.14 of 2022. The suit was disposed only on 02-12-2024, however, the present complaint has been filed on 26-03-2024. In any event, if the petitioner is aggrieved by issuance of process by the learned Magistrate, he can very well approach the learned Magistrate and seek necessary relief for deletion of his name from the array of parties.



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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:-

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*



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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. 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.



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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. Accordingly, the CMP.No.28178 of 2025 is ordered and CMP.No.28177 of 2025 is closed. No costs.

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Index : Yes / No

Internet : Yes / No

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To

The Judicial Magistrate, Mahila Court, Puducherry



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S.SOUNTHAR, J.

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