



WEB COPY

CRP No. 4133 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 4133 of 2025 and
CMP.No.21290 of 2025**

1. Mohamed Kothubudeen
S/o. Abdul Wahab, N.585, Main Road,
Pothakkudi, Needmangalam Taluk,
Thiruvrur Dt.

2. Rajabu Nisha
S/o. Abdul Wahab, No.585, Main Road,
Pothakkudi, Needamangalam
Taluk,Thiruvarur Dt

Petitioner(s)

Vs

Hamtha
D/o. Abdul Ravoof, No.3/238, Bismi St,
Thiruvudavasal, Atthikadai,
Koothanallur Taluk, Thiruvarur Dt.

Respondent(s)

PRAYERCivil Revision Petition filed under Article 227 of Constitution of India, praying to call for the records pertaining to the proceedings made in DVC No.7 of 2025 before the learned Judicial Magistrate No.II, Mannargudi and set aside the same in so far against this petitioner are concerned by allowing the CRP.

For Petitioner(s): M/s.S.K.Syed Elias



For Respondent(s): Served-No appearance

ORDER

The civil revision petition has been filed to quash the complaint preferred by the respondent under the provisions of Domestic Violence Act.

2. It is stated by the petitioners that the instant complaint was preferred by the respondent only after receipt of first Talaq notice by the first petitioner in the form of Talaq-e-hasan. It is further submitted that the allegations made in the complaint are utter falsehood and the same were made just to take vengeance against the petitioners.

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 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 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 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.



5. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioners to approach the concerned Magistrate for getting appropriate remedy in terms of order passed in *Arul Daniel* case cited supra.

6. 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 petitioners before the learned Magistrate unless it is absolutely necessary. Consequently, the connected miscellaneous petition is closed. No costs.

15-12-2025

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

The Judicial Magistrate No.II, Mannargudi



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