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C.R.P.No.4093 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.4093 of 2025
and C.M.P.No.21144 of 2025

Chitra

... Petitioner

VS.

1.M.Vishali

2.Dhanaram

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to strike off the proceedings of Domestic Violence Complaint filed in D.V.C.No.12 of 2025 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Alandur in so far as the Petitioners herein are concerned, by allowing the present Civil Revision Petition.

For Petitioner : Mr.A.M.M.Ramana

For R1 : Mr.K.Suthan

For R2 : Mr.R.P.Ruban Chakravarthy

ORDER

The Civil Revision Petition is filed seeking to strike off the complaint preferred by the 1st respondent/wife under the provisions of Protection of



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Women from Domestic Violence Act, 2005 against the petitioner and the 2nd respondent in D.V.C.No.12 of 2025 on the file of the Judicial Magistrate, Additional Mahila Court, Alandur.

2. The petitioner is the mother-in-law of the 1st respondent. It is the case of the petitioner that she is residing at Dindugal and 1st respondent lived along with 2nd respondent in matrimonial home at Chennai and there is no shared household between the petitioner and 1st respondent. In such circumstances, the process issued by the learned Judicial Magistrate is untenable in law.

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 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 power under



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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 it's supervisory jurisdiction.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to approach the very same Judicial Magistrate 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, Additional Mahila Court, Alandur shall consider and dispose of the same as expeditiously as possible.

6. Having regard to the fact the civil revision petitioner is aged about 71 years and she is only mother-in-law of the 1st respondent/wife, this Court is inclined to dispense with her personal appearance, unless her personal appearance is absolutely necessary. No costs. Consequently, the connected civil miscellaneous petition is closed.



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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Judicial Magistrate,
Additional Mahila Court, Alandur.



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S.SOUNTHAR, J.

dm

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