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C.R.P.(PD) No.80 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

CORAM

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

**C.R.P.(PD) No.80 of 2024
and C.M.P.No.323 of 2024**

1. Jaipal Jaikumar Thevar
2. Jeyakumar Ramaiah
3. Balamani Jeyakumar

... Petitioners

Vs.

1.C.Kokila Mercy

2.Minor Jebusssam Paul,
Represented by his Mother and Natural Guardian,
C.Kokila Mercy.

3.Minor J.Stephy,
Represented by his Mother and Natural Guardian,
C.Kokila Mercy

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the proceedings in D.V.C.No.4 of 2021 on the file of the learned Judicial Magistrate No.I, Pollachi and quash the same.

For Petitioners	: Mr.Prashanth Nadaraj B
For Respondents	: Mr.P.Thinesh



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ORDER

The Civil Revision Petition is filed to call for the records relating to the proceedings in D.V.C.No.4 of 2021 on the file of the learned Judicial Magistrate No.I, Pollachi and quash the same.

2. The 1st petitioner is the husband of the 1st respondent /complainant. The petitioners 2 and 3 are the parents-in-law of the 1st respondent. The 1st respondent herein preferred a complaint against the petitioners under the Domestic Violence Act in D.V.C.No.4 of 2021 on the file of the learned Judicial Magistrate No.I, Pollachi. After receipt of notice, the petitioners have approached this Court seeking to quash the proceedings in D.V.C.No.4 of 2021 mainly on the ground that the averments made in the above complaint are not sufficient to take cognizance and issuance of process by the Magistrate.

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



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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 Magistrate raising preliminary objections, this Court is not inclined to exercise its supervisory power under Article 227 of the Constitution of India 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***.

5. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioners to approach the concerned Magistrate for getting appropriate remedy as per the law laid down in ***Arul Daniel case*** cited supra.

6. Taking into consideration the proceedings initiated before learned Magistrate is predominantly civil in nature, the personal appearance of the petitioners during enquiry before Magistrate is dispensed with, unless their



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personal appearance is absolutely necessary. No costs. Connected

miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes / No
srn

To

The learned Judicial Magistrate No.I,
Pollachi



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S.SOUNTHAR, J,

srn

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