



C.R.P.No.4726 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2025

CORAM:

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.No.4726 of 2023
and
C.M.P.No.28044 of 2023

J.Vasanthakumar

...Petitioner

-Vs-

1.V.Thenmozhi
2.Vidya

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to call for the records pertaining to the petition in D.V.C.No.34 of 2020 pending on the file of the learned Judicial Magistrate No.I, Tiruppur, and strike off the respondents' name and the same as abuse process of law and quash the same by allowing the present Civil Revision Petition.

For Petitioner	:	Mr.C.S.Saravanan
For R1	:	Mr.N.Manoharan
For R2	:	Not ready notice



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ORDER

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This civil revision petition is filed seeking to strike out the name of the respondents in D.V.C.No.34 of 2020 on the file of the Judicial Magistrate No.I, Tiruppur, preferred by the petitioner/husband against the 1st respondent/wife under the provisions of the Domestic Violence Act.

2. When the civil revision petition is taken up for hearing, the learned counsel for the petitioner as well as the learned counsel for the first respondent submitted that the enquiry in the main Domestic Violence Case is commenced, and the matter is posted for the cross-examination of RW1 on 19.12.2025.

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 learned Magistrate can go before the very same learned Magistrate, raising preliminary objections. 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 observation of the Full Bench 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



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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.”

Hence, this Court is not inclined to exercise its Supervisory Power available under Article 227 of the Constitution of India to strike off the name of the respondents in the complaint.

4. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected, civil miscellaneous petition is closed. Since, enquiry in main Domestic Violence Case is already commenced and it is in the stage of RW1 cross, the parties are directed to cooperate for early disposal of main case.



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S.SOUNTHAR, J.

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5. Taking into consideration the proceedings initiated before the learned Magistrate is predominantly civil in nature, the personal appearance of the petitioner during enquiry before the learned Magistrate is dispensed with, unless his personal appearance is absolutely necessary.

02.12.2025

cda

To

The Judicial Magistrate No.I,
Tiruppur.

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