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CRP.No.5982 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.11.2025

CORAM

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

CRP.No.5982 of 2025
and CMP.No.29613 of 2025

1.R.Subramaniyan
2.S.Padmini
3.S.Ishwarya

... Petitioners

Vs

1.R.Ansuya
2.R.S.Prasanna

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the docket order dated 01.07.2025 passed in D.V.C.No.66 of 2021 on the file of Judicial Magistrate, Additional Mahila Court, Salem and allow this revision petition.

For Petitioners : Mr.R.Murali

ORDER

This civil revision petition is filed challenging the order passed

by the learned Judicial Magistrate, Additional Mahila Court, Salem, issuing process to the petitioners, under the provisions of Domestic Violence Act.

2. The first respondent-wife filed a complaint in DVC.No.66/2021 against her husband and in-laws, who are the second respondent and petitioners herein. Earlier the Magistrate has taken cognizance only as against the second respondent-husband. Aggrieved by the same, the first respondent/wife preferred a criminal appeal in C.A.No.79/2021 on the file of II Additional District Judge, Salem. The said appeal was allowed and the matter was remanded back to the file of the Judicial Magistrate with a direction to consider the complaint afresh and pass appropriate orders in so far as the petitioners who were arrayed as respondents 2 to 4 in the complaint.

3. Thereafter, the matter was considered afresh by the learned Magistrate and she thought it fit to issue process to the petitioners. Aggrieved by the same, the petitioners have come before this Court.

4. The learned counsel appearing for the petitioners would



submit that the averments made in the complaint are vague and the same are not sufficient to take cognizance by the Magistrate under the provisions of Domestic Violence Act, as against the petitioners.

5. If it is the case of the petitioners that the averments made in the complaint are not sufficient to invoke the provisions of Domestic Violence Act, the petitioners shall very well move before the same Magistrate and raise preliminary objections, like absence of shared house hold, domestic violence, etc., as per the law settled by the Full Bench of this Court in ***Arul Daniel and Others Versus Suganya*** reported in ***(2022) SCC Online Mad 5435*** cited infra. The relevant observation of 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 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*



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CRP.No.5982 of 2022

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 Constitution of India to strike off the complaint.

6. This civil revision petition is accordingly dismissed. There shall be no costs. Connected miscellaneous petition is closed. The petitioners are at liberty to approach the concerned Magistrate for appropriate relief as held by this Court in **Arul Daniel** case. If any such application is filed by the petitioner raising preliminary objections, the same shall be considered by the learned Magistrate as expeditiously as possible.

7. Taking into consideration that the complaint preferred by the first respondent/complainant before the Magistrate is predominantly civil in nature, the presence of the petitioners during enquiry before the Magistrate is dispensed with, unless their appearance is absolutely necessary.



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CRP.No.5982 of 2025

27.11.2025

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

1.The Judicial Magistrate
Additional Mahila Court
Salem.

2.The Section Officer
VR Section
High Court, Madras.



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S.SOUNTHAR, J.

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