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CRP.No.5149 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5149 of 2025

Vanithamani

... Petitioner

Vs.

Selvasekaran

...Respondent

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying, to strike off the Petition in C.M.P.No.709 of 2025 in D.V.C.No.29 of 2024 on the file of the Judicial Magistrate -II, Ponneri.

For Petitioner : Mr.E.Prabu

ORDER

The Civil Revision Petition is filed seeking to strike off the petition in CMP.No.709 of 2025 filed by the respondent to discharge himself from the proceedings initiated against him under the provisions of the Domestic Violence Act.

2. The petitioner, who is the wife, filed a domestic violence complaint against the respondent in DVC.No.29 of 2024. After receipt of notice, the



respondent filed instant application seeking his discharge.

3. The learned counsel for the petitioner submitted that proceedings under Section 12 of Domestic Violence Act is civil in nature and therefore, the provisions of Civil Procedure Code is not applicable. Hence, the instant application filed by the respondent seeking discharge under the provisions of Cr.P.C/ BNS is not at all maintainable. Therefore, the Court below ought not have numbered it.

4. A Full Bench of this Court in the case of *Arul Daniel and Others Versus Suganya* reported in (2022) SCC Online Mad 5435 held that if a respondent in domestic violence case is aggrieved by a notice issued by the Magistrate, he can very well move the very same Magistrate and raise preliminary issues regarding absence of shared household/domestic violence etc., Any person aggrieved by the order passed by the Magistrate on such objection can prefer an appeal under Section 29 of the Domestic Violence Act. Therefore, the petitioner is entitled to file an application before the learned Magistrate seeking his deletion from the array of parties as per the law laid down by the Full Bench in the above mentioned case.



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5. Though there is a considerable force in the submissions made by the learned counsel for the petitioner that the respondent is not entitled to seek discharge under the provisions of Cr.P.C, the present application filed by the respondent shall be treated as a petition to delete his name from the array of parties under the provisions of Order 1 Rule 10 of CPC. Such petition filed by the respondent shall be treated as one filed pursuant to the law laid down by the Full Bench in the above mentioned case.

6.The learned Judicial Magistrate-II, Ponneri is directed to consider the CMP.No.709 of 2025 in D.V.C.No.29 of 2024 and pass final orders on its own merits as expeditiously as possible.

7. With this clarification, the civil revision petition stands dismissed.
No costs.

30.10.2025

Index : Yes / No
Internet : Yes / No
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To
The Judicial Magistrate -II, Ponneri.

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