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CRP.No.5383 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5383 of 2025 and
CMP.No.27095 and 27096 of 2025

1.H.Syed Mubarakh
2. S.Bareetha Begum

... Petitioners

Vs.

1.S.Nusrath Afra
2. S.Syed Mohammed

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying, to call for the records pertaining to DVC.No.44 of 2025, on the file of the Additional Mahila Court (Judicial Magistrate Level) at Nagapattinam and strike out the 2nd and 3rd Petitioner's name from the Domestic Violence complaint as abuse process of law by allowing the present CRP.

For Petitioner : Mr.C.Mohammed Aseef

ORDER



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The Civil Revision Petition is filed to strike off the complaint preferred by the 1st respondent/complainant under the provisions of Domestic Violence Act.

2. The petitioners are parents-in-law of the 1st respondent /complainant.

3. The 1st respondent herein preferred a domestic violence complaint against the petitioners and her husband/ 2nd respondent in DVC.No.44 of 2025. After receipt of notice in the complaint, the petitioners have approached this Court seeking to strike off the complaint on the ground that they never lived along with the 1st respondent and hence, there was no shared household.

4. 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*



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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.

5. In view of the availability of alternative remedy before Magistrate, as held by Full Bench in **Arul Daniel** case, this Court is not inclined to exercise supervisory power under Article 227 of the Constitution of India. Further, the Hon'ble Apex Court in the case of **Virudhunagar Nadargal Dharma Paripalana Shabha Vs Tuticorin Educational Society** reported in



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MANU/SC/1365/2019 held that availability of alternative remedy before regular Courts, is near total bar for exercise of supervisory power by High Court. Hence, I am not inclined to interfere in revision.

6. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioners to approach the concerned Magistrate for getting appropriate remedy in terms of order passed in **Arul Daniel** case cited supra.

7. Considering the fact that the petitioners are parents-in-law of the 1st respondent/complainant, this Court is inclined to dispense with their personal appearance before the learned Magistrate unless their personal appearance is absolutely necessary. Accordingly, the civil miscellaneous petition in CMP.No.27095 of 2025 is ordered and connected CMP.No. 27096 of 2025 is closed. No costs.

05.11.2025

Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR, J.

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To

The Additional Mahila Court (Judicial Magistrate Level), Nagapattinam

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