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C.R.P.No.5313 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.5313 of 2025
and
C.M.P.Nos.26754 and 26755 of 2025

1.Elango

2.E.Rajeswari

... Petitioners

VS.

1.Swathi

2.E.Uthayak Kumar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to strike off the name of petitioners in D.V.C.No.7 of 2025 pending on the file of the learned Judicial Magistrate Court No.1, Pollachi.

For Petitioners : M/s.C.B.Geeth Sanchitha
for M/s.M.Guruprasad



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ORDER

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The Civil Revision Petition is filed seeking a direction to Court below to strike off the complaint preferred by the 1st respondent under the provisions of Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.7 of 2025.

2. Aggrieved by the issuance of process in the domestic complaint preferred by the 1st respondent herein, the respondents 2 and 3 therein namely parents-in-law of the 1st respondent herein/wife have come before this Court.

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 Judicial Magistrate can go before the very same Judicial 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 Protection of Women from Domestic Violence Act, 2005. 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 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



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approach the concerned Judicial Magistrate seeking deletion of his name from the complaint, 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 is dismissed with liberty to the petitioners to approach the very same Judicial Magistrate seeking to delete their names from the array of parties. If any such application is filed and preliminary issue with regard to the maintainability of the petition against revision petitioners is raised, the Judicial Magistrate shall consider the same and dispose of the same as expeditiously as possible.

6. Having regard to the fact the civil revision petitioners are aged about 64 and 54 years and they are only parents-in-law of the 1st respondent/wife, this Court is inclined to dispense with their personal appearance, unless their personal appearance is absolutely necessary. Accordingly, C.M.P.No.26754 of 2025 is ordered. No costs. Consequently, the connected civil miscellaneous petition is closed.



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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Judicial Magistrate Court No.1,
Pollachi.



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S.SOUNTHAR, J.

dm

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