



C.R..P.(PD)(MD).No.559 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.559 of 2025

and

C.M.P(MD) No.3019 of 2025

1. Senthil Kannan
2. S.Perumal
3. Velammal

... Petitioners/
Respondents

Vs.

Suriya Gandhi

... Respondent/
Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records in the case in D.V.C.No.22 of 2024, on the file of the Judicial Magistrate Court No.I, Virudhunagar, Virudhunagar District and quash the same as illegal, abuse process of law and allow this Civil Revision Petition.

For Petitioners : Mr.M.Jothi Basu

For Respondent : Mr.R.Rajamohan



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ORDER

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The present Civil Revision Petition has been filed by the respondents in D.V.C.No.22 of 2024, on the file of the Judicial Magistrate Court No.1, Virudhunagar District, seeking to quash the same on the ground that the said proceedings as illegal, abuse of process of law.

2. According to the learned counsel appearing for the revision petitioners, the wife has already initiated maintenance proceedings before the Judicial Magistrate No.1, Virudhunagar District, in M.C.No.24 of 2024 and the same is pending. The husband has filed H.M.O.P.No.228 of 2024, before the Sub Court, Virudhunagar, for restitution of conjugal rights. According to the learned counsel appearing for the revision petitioner, as per Section 26 of Protection of Women from Domestic Violence Act, 2005, the wife is entitled to seek the same prayer in the already pending proceedings before the Judicial Magistrate No.1, Virudhunagar and Sub Court, Virudhunagar District. In such circumstances, a fresh proceedings should not have been initiated under the Domestic Violence Act.



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3. He further contended that the prayer sought for in the DVC proceedings could be implemented only as against the first petitioner namely, the husband. In such circumstances, the father-in-law and mother-in-law, who are senior citizens shall be deleted from the array of parties and may be exonerated in the proceedings initiated under the Domestic Violence Act.

4. Per contra, the learned counsel appearing for the respondent herein had contended that Section 26 of Protection of Women from Domestic Violence Act, 2005, only gives an option to the wife either to initiate proceedings under the Domestic Violence Act or seek the same as an interim relief in other proceedings that are pending before the Civil Court or Family Court. In such circumstances, initiation of proceedings under the Domestic Violence Act cannot be considered to be barred under Section 26 of the said Act. He further contended that the revision petitioners have not made out any case to strike off the proceedings initiated by the wife.

5. Heard both sides and perused the material records.



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6. As far as the plea relating to the pendency of M.C.No.24 of 2022 and H.M.O.P.No.228 of 2024 are concerned, the wife is entitled to initiate proceedings under any one of the enactments and there is no bar for initiating proceedings under all the enactments. In case, if the petitioners feel that these proceedings have to be heard together, it is for them to make an appropriate application before the competent Court. The same cannot be a ground to quash the proceedings initiated under the Protection of Women from Domestic Violence Act, 2005.

7. As far as the request of the revision petitioners to delete the revision petitioners 2 and 3 (father -in-law and mother-in-law) are concerned, the same cannot be decided before conducting trial by the learned Judicial Magistrate No.I, Virudhunagar. However, considering their age, this Court directs that their physical presence may be dispensed with for all the hearings, unless, it is specifically required by the said Court.



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8. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate Court No.1,
Virudhunagar District.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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