



WEB COPY

CRP No. 209 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-01-2026

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 209 of 2023

C.M.P.Nos.1691 & 1693 of 2023

1. V.R. Sivakumar

2. R. Padmavathi

Petitioner(s)

Vs

1. Chitra Devi

2.C. Rithika

3.Vidhya

Respondent(s)

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to strike of the complaint in D.V.A.No.2 of 2021 on the file of the learned Judicial Magistrate No.1, Pollachi by allowing this Civil Revision Petition.

For Petitioner(s): Mr.N. Manoharan

For Respondent(s): Mr.S.Saravana Kumar for
M/s.I Abrar Mohamed Abdullah
for R1 and R2



WEB COPY

CRP No. 209 of 2023



ORDER

The Civil Revision petition is filed challenging the proceedings initiated by respondents 1 and 2 under the provisions of Domestic Violence Act.

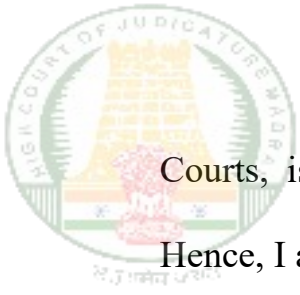
2.The learned counsel appearing for the petitioners submits that the instant complaint has been preferred by the first and second respondents. He further submits that the first and second respondents already filed a suit for partition and obtained a decree. Only after eighteen years, the present complaint has been preferred just to harass the petitioners. It is stated that the allegations made in the complaint against the petitioners are frivolous and based on the vague allegation, the learned Magistrate issued process against the petitioners.

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 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 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 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 **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.

WEB COPY

5. 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.

6. Having regard to the fact the complaint preferred under Section 12 of Domestic Violence Act is predominantly civil in nature, this Court is inclined to dispense with the personal appearance of the petitioners before the learned Magistrate unless it is absolutely necessary. Accordingly, the C.M.P.No.1693 of 2023 is ordered and connected C.M.P.No.1691 of 2023 is closed. No costs.

02-01-2026

ep

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



CRP No. 209 of 2023



To
The Judicial Magistrate No.1,
Pollachi.



WEB COPY

CRP No. 209 of 2023



S.SOUNTHAR J.

ep

**CRP No. 209 of 2023
C.M.P.Nos.1691 & 1693
of 2023**

02-01-2026