



C.R.P.No.820 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.820 of 2022
and
C.M.P.No.4117 of 2022

Govindan

... Petitioner

VS.

1.Dhanabagiyam

2.Minor Rubashree (Aged 11 years)
D/o.Govindan

3.Minor Santhosh Krishnan (Aged 9 years)
S/o.Govindan

(Minor Respondents 2 and 3 represented by
Guardian Mother-1st Respondent)

4.Kannika

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for records and strike off the petition in D.V.C.No.15 of 2020, Judicial Magistrate, Sirkazhi.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.M.Mohamed Saifulla



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ORDER

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The Civil Revision Petition is filed seeking to strike off the complaint preferred by the respondents 1 to 3 under the provisions of Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.15 of 2020 on the file of the Judicial Magistrate, Sirkazhi.

2. The learned counsel appearing for the petitioner would submit that earlier respondents 1 to 3 herein preferred a domestic violence complaint in D.V.C.No.1 of 2018 and the same was dismissed as settled out of court. Again, with the very same cause of action, the respondents 1 to 3 preferred another domestic violence complaint. Therefore, the same is not at all maintainable in law.

3. A perusal of the typed-set of papers would indicate as per the averments contained in the said complaint, subsequent to the dismissal of the earlier domestic violence complaint, both the petitioner and 1st respondent lived together and thereafter, again there was misunderstanding. The 1st respondent preferred a petition for restitution of conjugal rights in H.M.O.P.No.248 of 2019 on the file of the Principal Sub Court, Mayiladuthurai and the same was decreed. Whether the allegations made in



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the complaint are sufficient to issue process under the provisions of Domestic Violence Act is a jurisdictional issue and the petitioner is entitled to raise the said jurisdictional issue before the learned Judicial Magistrate as per the law laid down by the Full Bench of this Court in the case of ***Arul Daniel and Others Versus Suganya*** reported in ***(2022) SCC Online Mad 5435***.

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 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



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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 categorical pronouncement of law by the Full Bench of this Court that a person aggrieved by issuance of process can very well approach the concerned Judicial Magistrate raising preliminary issues and hence, this Court is not inclined to exercise its supervisory power under Article 227 of the Constitution of India. When petitioner has remedy before Regular Magistrate, as held by the Hon'ble Apex Court in the case of ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and others vs. Tuticorin Educational Society and others*** reported in ***MANU/SC/1365/2019***, this Court need not exercise its supervisory jurisdiction.



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6. Accordingly, the Civil Revision Petition is dismissed with liberty to

the petitioner to approach the very same Judicial Magistrate raising preliminary issues. If any such application is filed and preliminary issue with regard to the maintainability of the petition against revision petitioner is raised, the Judicial Magistrate, Sirkazhi shall consider and dispose of the same as expeditiously as possible.

7. The complaint preferred by the respondents 1 to 3 seeking various orders under Sections 18, 19, 20, 21 and 22 of the Protection of Women from Domestic Violence Act, 2005, are predominantly civil in nature and therefore, this Court is inclined to dispense with the personal appearance of the petitioner before the Judicial Magistrate, Sirkazhi, unless his presence is absolutely necessary. No costs. Consequently, the connected civil miscellaneous petition is closed.

19.01.2026

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

To

The Judicial Magistrate, Sirkazhi.

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S.SOUNTHAR, J.

dm

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