



C.R.P.No.788 of 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 20.01.2026**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.R.P.No.788 of 2025**  
**and C.M.P.No.4629 of 2025**

1.Mohammed Hafiz

2.Mohammed Arif

3.Hajjathul Muthu

4.Mohammed Yunus

5.Ahmed Imran

6.Noorul Fathima

... Petitioners

vs.

Subatra Ajmalkhan @ Afroz

... Respondent

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the complaint filed by the respondent in D.V.C.No.11 of 2024 on the file of the District Munsif Cum Judicial Magistrate Court, Tarangambadi, Mayiladuthurai and allow the present revision petition.

For Petitioners : Mr.R.Lakshmi Narasimhan

For Respondent : M/s.S.S.Jhothivani



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## **ORDER**

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The Civil Revision Petition is filed challenging the complaint preferred by the respondent under the provisions of Protection of Women from Domestic Violence Act, 2005 in D.V.C.No.11 of 2024 on the file of the District Munsif Cum Judicial Magistrate Court, Tarangambadi, Mayiladuthurai.

2. The learned counsel appearing for the petitioners submitted that the respondent in her complaint stated that she was assaulted on 18.02.2024 by the petitioners 1 to 4. But on the said date, the petitioners were not in India. It is further stated that the respondent preferred a complaint on 03.05.2024 before All Women Police Station, Mayiladuthurai. In the said complaint, the averments made in the domestic violence case have not been mentioned, therefore, the same is only an after thought.

3. In the written arguments made by the learned counsel appearing for the petitioners, the date of arrival of the petitioners in India and the departure from India were mentioned in Paragraph No.4.



4. A perusal of the same would indicate the petitioners 1 to 3 were very much available in India at the relevant point of time (18.02.2024). As far as 4<sup>th</sup> petitioner is concerned, he is permanently residing in India. In such circumstances, the first submission made by the learned counsel appearing for the petitioners is not acceptable to this Court.

5. As far as second submission made by the learned counsel appearing for the petitioner that in the complaint preferred by the respondent on 03.05.2024 there was no allegation regarding assault dated 18.02.2024 is concerned, all the preliminary issues regarding maintainability of the complaint can be raised by the petitioners by filing appropriate application before the learned Judicial Magistrate as per the law laid down by the Full Bench of this Court in *Arul Daniel and Others Versus Suganya* reported in *(2022) SCC Online Mad 5435*.

6. 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.”*



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7. 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 petitioners have 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.

8. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioners 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 petitioners is raised, the District Munsif Cum Judicial Magistrate Court, Tarangambadi, Mayiladuthurai, shall consider and dispose of the same as expeditiously as possible.



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9. The complaint preferred by the respondent seeking various orders under Sections 18, 19, 20 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 petitioners before the District Munsif Cum Judicial Magistrate Court, Tarangambadi, Mayiladuthurai, unless their presence is absolutely necessary. No costs. Consequently, the connected civil miscellaneous petition is closed.

**20.01.2026**

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



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To

The District Munsif Cum Judicial Magistrate Court,  
Tarangambadi, Mayiladuthurai.



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**S.SOUNTHAR, J.**

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