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C.R.P. No.2831 of 2023

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

**DATED : 07.01.2026**

**CORAM**

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

**C.R.P. No.2831 of 2023**

**and**

**C.M.P. No.17539 of 2023**

1.P.Rajesh  
No.20/3, CPWD Staff Quarters,  
K.K.Nagar, Chennai 78.

2.Thangammani  
No.20/3, CPWD Staff Quarters,  
K.K.Nagar, Chennai 78.

3.Nishanthi Ganesh  
No.20/3, CPWD Staff Quarters,  
K.K.Nagar, Chennai 78.

4.Ganesh  
No.20/3, CPWD Staff Quarters,  
K.K.Nagar, Chennai 78.

Petitioner(s)

Vs

1.Shilpa Krishna M.S.  
W/o.Rajesh,  
Plot No.1, 4th Cross St,  
Ambal City, Queen Victoria Road,  
Poonamallee, Chennai 56.

2.R.S.ShrinavSai (Minor)  
Rep.by mother and natural guardian,  
Plot No.1,4th Cross St, Ambal City,  
Queen Victoria Road,  
Poonamallee, Chennai 56.

Respondent(s)



C.R.P. No.2831 of 2023

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India praying to strike off the application in DVC.No.27 of 2023 filed by the respondents from the record of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner(s) : Mr.Guru Dhanajay

For Respondent(s) : Mr.T.K.S.Gandhi

### **ORDER**

The Civil Revision Petition is filed seeking to strike off the complaint preferred by the respondents under the Domestic Violence Act.

2. It is stated by the learned counsel for the petitioners that the complaint preferred by the respondents do not contain any specific averment against the petitioners so as to attract the provisions of the Domestic Violence Act. Therefore, the learned Magistrate ought not have 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

2/6



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**



C.R.P. No.2831 of 2023

***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.

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. Consequently, the connected miscellaneous petition is closed. No costs.

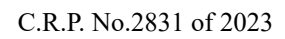
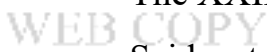
**07.01.2026**

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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5/6



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C.R.P. No.2831 of 2023

**S. SOUNTHAR, J.**

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**C.R.P. No.2831 of 2023**

**07.01.2026**