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C.R.P. No.2857 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.2857 of 2023

1.Chandran
S/o.Loganathan,
Anumanthapuram, Sirkazhi Taluk,
Mayiladuthurai District.

2.Karunakaran
S/o.Loganathan,
Anumanthapuram, Sirkazhi Taluk,
Mayiladuthurai District.

Petitioner(s)

Vs

Kavitha
D/o.Kaliyamurthy,
Periya Naduvangaku Village,
Thirumaladi Taluk,
Mayiladuthurai District.

Respondent(s)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India praying to strike off of the domestic Violence case, in DVC OP no.21/2022 on the file of Learned Judicial Magistrate-1, Mayiladuthurai by allowing the above Civil Revision Petition.

For Petitioner(s) : Mr.M.Saravanakumar

For Respondent(s) : No appearance



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ORDER

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

2. It is stated by the learned counsel for the petitioners that the 1st petitioner already filed a divorce petition against the respondent in H.M.O.P.No.118 of 2023 before the Sub-Court, Sirkhali, and the present complaint has been filed as a counter blast after the divorce petition was filed by the 1st respondent. It is further stated that on the basis of the averments contained in the complaint preferred by the respondent, the learned Magistrate ought not have issued process against the petitioners as no case had been made out under the provisions of the Domestic Violence Act.

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*



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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



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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. No costs.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:
The Judicial Magistrate-1,
Mayiladuthurai.



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S.SOUNTHAR, J.

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