



C.R.P.NO.2903 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 09 / 12 / 2025

ORDER DELIVERED ON: 06 / 01 / 2026

CORAM

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.2903 OF 2023

AND

C.M.P.NOS.17970 & 17960 OF 2023

1.Vinothan
2.Poornima
3.Janarthana Reddy

... Petitioners/
Respondents 4 to 6

Vs.

1.Indumathi
2.Sathiyathan
3.Govindan
4.Chithra

... 1st Respondent/
Petitioner

... Respondents 2 to 4/
Respondents 1 to 3

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, 1950, praying to strike off the petition in D.V.C.No.5 of 2023 on the file of the Judicial Magistrate, Chengam and quash the proceedings as against the petitioners herein.

For Petitioners : Mr.M.Sivavarthan

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For Respondent-1 : Ms.Divia Bharathi
For Respondent-2 : Ms.M.Sri Durga – No appearance
For Respondents-
3 & 4 : Served - No appearance

ORDER

This Civil Revision Petition is filed by the Revision Petitioners praying to strike off the Domestic Violence Complaint filed by the 1st Respondent herein in D.V.C.No.5 of 2023 on the file of 'the learned Judicial Magistrate, Chengam' [hereinafter referred to as the 'Trial Court'] and quash the proceedings as against the Petitioners herein.

2.Case of the 1st respondent is that the 2nd Respondent and 1st Respondent are husband and wife and their marriage took place on June 14, 2019 at Tiruvannamalai. In their wedlock, a female child, namely Sowchanya was born in the year 2020. Respondents 3 and 4 are the in-laws of the 1st respondent. After the birth of the female child, there was a dispute in the family and the 2nd Respondent / husband beat the 1st Respondent / wife demanding dowry. According to the 1st Respondent, the Revision Petitioners abetted the Respondents 2 to 4 to demand dowry. Hence, the 1st Respondent filed a complaint under Section 12 of the



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Protection of Women from Domestic Violence Act, 2005, seeking the following reliefs:

- (a). Return of articles more fully described in the schedule by the Respondents 2 to 4;
- (b). Sum of Rs.30,000/- per month as maintenance from the 2nd Respondent;
- (c). Residential Order against the 2nd Respondent;
- (d). Compensation of Rs.75,00,000/-from the Respondents 2 to 4 and the 1st Revision Petitioner;
- (e). Protection Order from the Revision Petitioners and the Respondents 2 to 4; and
- (f). Interim maintenance of Rs.15,000/- per month from the 2nd Respondent till the disposal of the complaint.

3.Learned Counsel appearing for the Revision Petitioner submits that the 1st Revision Petitioner is the brother of the 2nd Respondent; the 2nd Revision Petitioner is the wife of the 1st Revision Petitioner and 3rd Revision Petitioner is the father of the 4th Respondent [4th Respondent is the mother-in-law of the 1st respondent]. The Revision Petitioners did not cause any domestic violence to the 1st Respondent. The 1st Respondent only with a view to cause inconvenience and hardship to the Revision



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Petitioners, has falsely implicated the Revision Petitioners in the complaint. Further submits that the 3rd Revision Petitioner is an aged person and is in no way connected with the case. The Trial Court without properly scrutinizing the complaint, took it on file and proceeded with the case. Further submits that there was no prayer sought against the Revision Petitioners 2 & 3 herein. The said complaint was filed by the 1st Respondent with active collusion with the 2nd Respondent. Accordingly, he prays to allow this Civil Revision Petition.

3.1.In support of his arguments, he would rely upon the following Judgments:

(i).*Shaurabh Kumar Tripathi's Case* - Judgment of the Hon'ble Supreme Court in *Shaurabh Kumar Tripathi's -vs- Vidhi Rawal* reported in 2025 SCC OnLine SC 1158;

(ii).*Arul Daniel's Case* - Judgment of the Hon'ble Full Bench of this Court in *Arul Daniel -vs- Suganya* reported in (2022) 2 LW (Cri) 801 (FB) : 2022 SCC OnLine Mad 5435

4.Per contra, learned Counsel appearing for the 1st Respondent submits that the Revision Petitioners and Respondents 2 to 4 were residing in the same address and there was a domestic relationship



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between the Revision Petitioners, Respondents 2 to 4 and the 1st Respondent. Further submits that at the instigation of the Revision Petitioners, the Respondents 2 to 4 demanded dowry and caused physical violence against the 1st Respondent. Further submits that the 1st Respondent made sufficient averments in the complaint against the Revision Petitioners. The Trial Court only after properly scrutinizing the averments made in the complaint, ordered notice to the Revision Petitioners and Respondents 2 to 4. Further submits that an alternative remedy is available to the Revision Petitioners to approach the Trial Court seeking to delete their names; instead, they have filed this Civil Revision Petition under Article 227 of the Constitution of India, 1950, which would not lie. Accordingly, the learned Counsel prays to dismiss the Civil Revision Petition.

5.This Court has considered both sides' submissions.

6.The 2nd Respondent and 1st Respondent are husband and wife and their marriage took place on June 14, 2019 at Tiruvannamalai. In the wedlock, a female child, namely Sowchanya was born in the year 2020. Respondents 3 and 4 are the parents of the 2nd Respondent; 1st Revision Petitioner is the brother of the 2nd Respondent and brother-in-law of the 1st Respondent; 2nd Revision Petitioner is the wife of the 1st Revision

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Petitioner and sister-in-law of the 1st Respondent; and 3rd Revision

Petitioner is the father of the 1st Respondent's mother-in-law namely 4th

Respondent herein.

7.The long cause title to this Civil Revision Petition would show that the Revision Petitioners 1 & 2 and the Respondents 2 to 4 are residing under the same address *viz.*, Door No.4/107, Mittoor Village & Post, Nacharkuppam, Tirupattur District. In other words, the cause title would show that the Revision Petitioners 1 & 2 and the Respondents 2 to 4 are residing under one roof and they had a domestic relationship with the 1st Respondent.

8.This Court has perused the domestic violence complaint filed by the 1st Respondent. In the complaint, it has been stated that the Respondents 2 to 4 herein demanded dowry and caused physical violence against the 1st Respondent at the instigation of the Revision Petitioners. While a specific prayer has been made against the 1st Revision Petitioner and the Respondents 2 to 4, there is no specific prayer sought against the Revision Petitioners 2 and 3. Further, other than the averment *qua* instigation, there is no specific averment against the Revision Petitioners 2 and 3.



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9.Considering the facts and circumstances of the case, this Court is of the view that the Revision Petitioners 2 and 3 are not necessary parties to decide the domestic violence case and they were added as misjoinder of parties. This Court is of the view that the Trial Court at the time of scrutinizing the complaint itself ought to have deleted the names of the Revision Petitioners 2 and 3 in the complaint. The Trial Court miserably failed to consider the said aspect at the time of taking the complaint on file.

10.It is apposite to mention here that the Hon'ble Full Bench of this Court in **Arul Daniel's Case** [cited *supra*] has held as follows:

“87.Before bringing the curtains down, for the sake of convenience and clarity, we reiterate the following directions passed by the learned single judge in Pathmanathan, supra, which shall now govern the disposal of applications under the D.V. Act:

“i. An application under Section 12 of the D.V. Act, is not a complaint under Section 2(d) of the Cr.P.C. Consequently, the procedure set out in Section 190(1)(a) & 200 to 204, Cr.P.C. as regards cases instituted on a complaint has no application to a proceeding under the D.V. Act. The Magistrate cannot, therefore, treat an application under the D.V. Act as though it is a complaint



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case under the Cr.P.C.

ii. *An application under Section 12 of the Act shall be as set out in Form II of the D.V. Rules, 2006, or as nearly as possible thereto. In case interim ex-parte orders are sought for by the aggrieved person under Section 23(2) of the Act, an affidavit, as contemplated under Form III, shall be sworn to.*

iii. *The Magistrate shall not issue a summon under Section 61, Cr.P.C. to a respondent(s) in a proceeding under Chapter IV of the D.V. Act. Instead, the Magistrate shall issue a notice for appearance which shall be as set out in Form VII appended to the D.V. Rules, 2006. Service of such notice shall be in the manner prescribed under Section 13 of the Act and Rule 12(2) of the D.V. Rules, and shall be accompanied by a copy of the petition and affidavit, if any.*

iv. ***Personal appearance of the respondent(s) shall not be ordinarily insisted upon, if the parties are effectively represented through a counsel. Form VII of the D.V. Rules, 2006, makes it clear that the parties can appear before the Magistrate either in person or through a duly authorized counsel. In all cases, the personal appearance of relatives and other third parties to the domestic relationship shall be insisted only upon compelling reasons being shown. (See Siladitya Basak v. State of West Bengal (2009 SCC OnLine Cal 1903).***

v. *If the respondent(s) does not appear either in person or through a counsel in answer to a notice under Section 13, the Magistrate may proceed to determine the application ex parte.*

vi. *It is not mandatory for the Magistrate to issue notices to all parties arrayed as respondents in an*



application under Section 12 of the Act. As pointed out by this Court in Vijaya Baskar (cited supra), there should be some application of mind on the part of the Magistrate in deciding the respondents upon whom notices should be issued. In all cases involving relatives and other third parties to the matrimonial relationship, the Magistrate must set out reasons that have impelled them to issue notice to such parties. To a large extent, this would curtail the pernicious practice of roping in all and sundry into the proceedings before the Magistrate.

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.

viii. Similarly, any party aggrieved may also take



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recourse to Section 25 which expressly authorises the Magistrate to alter, modify or revoke any order under the Act upon showing change of circumstances.

ix. In *Kunapareddy (cited supra)*, the Hon'ble Supreme Court upheld the order of a Magistrate purportedly exercising powers under Order VI, Rule 17 of The Civil Procedure Code, 1908 (hereinafter referred to as "C.P.C."), to permit the amendment of an application under Section 12 of the D.V. Act. ***Taking a cue therefrom, it would be open to any of the respondent(s), at any stage of the proceeding, to apply to the Magistrate to have their names deleted from the array of respondents if they have been improperly joined as parties. For this purpose, the Magistrate can draw sustenance from the power under Order I Rule 10(2) of the C.P.C. A judicious use of this power would ensure that the proceedings under the D.V. Act do not generate into a weapon of harassment and would prevent the process of Court from being abused by joining all and sundry as parties to the lis.***

x. ***The Magistrates must take note that the practice of mechanically issuing notices to the respondents named in the application has been deprecated by this Court nearly a decade ago in Vijaya Baskar (cited supra). Precedents are meant to be followed and not forgotten, and the Magistrates would, therefore, do well to examine the applications at the threshold and confine the inquiry only to those persons whose presence before it is proper and necessary for the grant of reliefs under Chapter IV of the D.V. Act.***

xi. In *Satish Chandra Ahuja (cited supra)*, the Hon'ble Supreme Court has pointed out the importance of



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the enabling provisions under Section 26 of the D.V. Act to avoid multiplicity of proceedings. Hence, the reliefs under Chapter IV of the D.V. Act can also be claimed in a pending proceeding before a civil, criminal or family court as a counter claim.

xii. While recording evidence, the Magistrate may resort to chief examination of the witnesses to be furnished by affidavit (See Lakshman v. Sangeetha, (2009) 3 MWN (Cri) 257. The Magistrate shall generally follow the procedure set out in Section 254, Cr.P.C. while recording evidence.

xiii. Section 28(2) of the Act is an enabling provision permitting the Magistrate to deviate from the procedure prescribed under Section 28(1), if the facts and circumstances of the case warrants such a course, keeping in mind that in the realm of procedure, everything is taken to be permitted unless prohibited (See Muhammad Sulaiman Khan v. Muhammad Yar Khan, (1888) 11 ILR All 267).

xiv. A petition under Article 227 of the Constitution may still be maintainable if it is shown that the proceedings before the Magistrate suffer from a patent lack of jurisdiction. The jurisdiction under Article 227 is one of superintendence and is visitorial in nature and will not be exercised unless there exists a clear jurisdictional error and that manifest or substantial injustice would be caused if the power is not exercised in favour of the petitioner. (See Abdul Razak v Mangesh Rajaram Wagle (2010) 2 SCC 432, Virudhunagar Hindu Nadargal Dharma Paribalana Sabai v Tuticorin Educational Society (2019) 9 SCC 538). In normal circumstances, the power under Article 227 will not be exercised, as a



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measure of self-imposed restriction, in view of the corrective mechanism available to the aggrieved parties before the Magistrate, and then by way of an appeal under Section 29 of the Act.”

88.The order of reference dated 12.08.2022 is, thus, answered on the aforesaid terms.”

(Emphasis supplied by this Court)

11. In view of the above legal position, the Trial Court ought to have deleted the names of the Revision Petitioners 2 and 3 from the complaint. But the Trial Court failed to do so. Hence, this Court is inclined to allow the Civil Revision Petition in part and direct the Trial Court to delete the names of the Revision Petitioners 2 and 3 in the domestic violence complaint.

12. There is no quarrel with the legal position laid down by the Hon'ble Supreme Court in ***Shaurabh Kumar Tripathi's Case***. It was held that in appropriate cases the jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 can be invoked. Section 482 is not in the picture of this case.

13. In the result, this Civil Revision Petition is partly allowed. The Trial Court is directed to delete the names of the Revision Petitioners 2



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and 3 (Respondents 5 and 6 in D.V.C.No.5 of 2023). Considering the relationship between the parties, there shall be no order as to costs.

Consequently, connected Civil Miscellaneous Petitions are closed.

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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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R. SAKTHIVEL, J.

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To

The Judicial Magistrate,
Chengam.

PRE-DELIVERY ORDER MADE IN

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