



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-01-2026

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 1367 of 2023

C.M.P.No.9156 of 2023

Kamalakannan

Petitioner(s)

Vs

Minor.Dhanya
Rep. by Maternal Grandfather/Guardian
Mr.Viswanathan,
No.322, Jayamkondam Road,
Andimadam Post and Taluk,
Ariyalur District.

Respondent(s)

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to strike of the proceedings in connection with D.V.A. No.17 of 2018 on the file of Judicial Magistrate II, Jayamkondam.

For Petitioner(s): Mr.R.Amardeep for
M/s.Tamizh Law Firm

For Respondent(s): Mr.M.K.Kabir, Senior Counsel
for
M/s.T.Jayaraman

ORDER



The Civil Revision petition is filed challenging the proceedings initiated by the respondent under the provisions of Domestic Violence Act.

2.The learned counsel for the petitioner would submit that the very relationship of the petitioner with the respondent is under dispute and therefore the respondent cannot be termed as an aggrieved person within the meaning of Section 2 (a) of Domestic Violence Act. He further submitted that there is no domestic relationship between the petitioner and the respondent within the meaning of Section 2 (f) of Domestic Violence Act and hence the complaint preferred by the respondent under the provisions of Domestic Violence Act is not at all maintainable.

3.Whether there is a domestic relationship between the petitioner and respondent, whether the respondent is an aggrieved person are all questions relating to preliminary issue. Therefore, the petitioner can very well go before the Magistrate and raise all these objections in view of the law settled by the Full Bench in *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 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 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.

5. 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 for exercise of supervisory power by High Court. Hence, I am not inclined to interfere in revision.

6. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioner to approach the concerned Magistrate for getting appropriate remedy in terms of order passed in *Arul Daniel* case cited supra.

7. 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 petitioner before the learned Magistrate unless it is absolutely necessary. Accordingly, connected C.M.P.No.9156 of 2023 is closed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes



Neutral Citation: Yes/No

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To
The Judicial Magistrate II,
Jayamkondam.



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S.SOUNTHAR J.

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