



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 28.01.2026

Order pronounced on : 30.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJICRP.No.4429 of 2024

D.Malini

... Petitioner

Vs.

S.Vinodhalatha

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned order dated 25.06.2024 made in CRP.No.44 of 2023 on the file of the III Additional District Court, Coimbatore, confirming the order dated 17.03.2023 made in CMP.No.12108 of 2022 in D.V.A.No.62 of 2021, on the file of the Special Court for Trial of Domestic Violence Act Cases, Coimbatore.

For Petitioner : Mr.R.Prabhakar

For Respondent : Mr.A.Ramkumar



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ORDER

The 3rd respondent, in domestic violence proceedings initiated by the respondent herein, is the revision petitioner.

2.I have heard Mr.R.Prabhakar, learned counsel for the revision petitioner and Mr.A.Ramkumar, learned counsel for the respondent. I have also gone through the records filed by way of typed set of papers.

3.Brief facts of the case leading to the present revision petition:

The respondent herein, as petitioner, filed DVA.No.62 of 2021 before the Special Court for Trial of Domestic Violence Act Cases, Coimbatore, against her husband, the 1st respondent. In the DVC proceedings, her mother-in-law, the 2nd respondent and the present revision petitioner, the 3rd respondent. The petitioner took out an application in CMP.No.12108 of 2022 in DVA.No.62 of 2021, seeking to delete or strike off the name of the revision petitioner in the DVA. The said application, on enquiry, was dismissed by the Special Court for Trial of Domestic Violence Act Cases, as against which the petitioner preferred a revision in Criminal Revision Petition No.44 of 2023. The said revision petition was also dismissed by the



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III Additional District Court, Coimbatore. Challenging the said concurrent orders, the present revision petition has been filed.

4.Mr.R.Prabhakar, learned counsel appearing for the revision petitioner would firstly contend that the Special Court did not even consider the application for striking off the name of the petitioner in a proper perspective. Inviting my attention to the order passed by the Special Court, the learned counsel for the petitioner would contend that it is clear from the face of the record that the Special Court has confused the issues before it and has merely awarded maintenance payable to the respondent herein, by the husband and has not expressed any final opinion with regard to the request of the revision petitioner to be removed from the array of parties.

5.Mr.R.Prabhakar, learned counsel for the petitioner would also attack the findings of the Appellate Court, in and whereby, the order of the Special Court was confirmed. The learned counsel for the petitioner also contends that the Court has failed to appreciate the definition of “domestic relationship” and has also erroneously relied on the decision of the Kerala High Court in *John Idiculla and another vs. state of Kerala (2005 SCC*



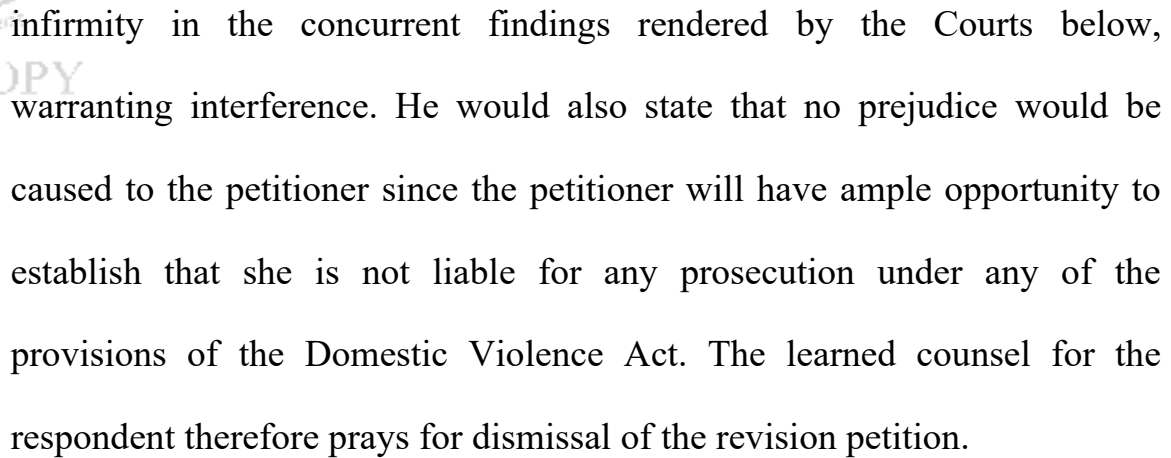
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Online Ker 231), which according to learned counsel for the petitioner, has not been approved by the Honourable Supreme Court in a later decision.

The learned counsel for the petitioner would therefore state that the petitioner, who is admittedly not related to the respondent and is only alleged to be a concubine of the husband of the respondent cannot be implicated in the domestic violence proceedings. In support of his contentions, learned counsel for the petitioner relies on the following decisions :

1. *U.Suvetha v. State*, reported in (2009) 7 SCR 902.
2. *Sunitha Jha vs State of Jharkhand* reported in (2010) 11 SCR 648.
3. *John Idiculla and another vs. state of Kerala* reported in 2005 SCC Online Ker 231.
4. *Smt. Harini v. Smt. Kavya and others* dated 17.06.2021 in Criminal Petition No.2148 of 2021.
5. *Rabindra Kumar Mishra and another vs State of Odisha and another* dated 17.03.2023 in [Crl.MC.No.2334 of 2021](#).

6. Per contra, Mr.A.Ram Kumar, learned counsel appearing for the respondent /wife would contend that the proviso to Section 2(f) permits the revision petitioner to be proceeded against and therefore, there is no



7. I have carefully considered the submissions advanced on either side. I have also gone through the decisions that have been relied on by the learned counsel for the petitioner and also the decisions on which reliance has been placed on by the Courts below.

8. Admittedly, the petitioner is not a blood relative, to be a member of the family of the respondent. It is the allegation of the respondent in her domestic violence complaint that her husband is in an illicit relationship with the revision petitioner and she is the cause of all agony for the respondent and therefore, the 3rd respondent is also implicated in the domestic violence case. In order to appreciate the respective contentions, that have been advanced in this revision, it would be necessary to extract



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few of the relevant provisions.

“1. Section 2(a) defines an aggrieved person to be a woman who is, or has been in a domestic relationship with the respondent and alleges to have been subjected to acts of domestic violence by the respondent.

2. Section 2(f) defines a domestic relationship to mean a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption, or are family members living together as a joint family.

3. Section 2(q) defines respondent to mean any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this act. The proviso to Section 2(q) provides that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against the relative of the husband or the male partner.”

9. The impugned orders are sought to be defended, citing proviso to Section 2(q). Admittedly, the petitioner does not qualify to be a family member. She is a stranger to the family. The purport of Section 2(q) is only to enable any female or an aggrieved wife, who is living in a relationship in the nature of a marriage with the respondent, that is an adult male person/ husband to also make a complaint under the provisions of this act, against a relative of the husband or the male partner. The proviso, therefore, in my



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considered opinion, cannot be stretched to a case of the present nature, where the aggrieved person being the wife admittedly, to file a complaint against the revision petitioner, who is alleged to be living in a relationship with her husband.

10. The Honourable Supreme Court in *Suvetha's case* (referred herein supra) dealing with a case of Section 498-A of IPC, held that the term 'relative' must be assigned a meaning as is commonly understood and it would depend upon the nature of the statute. Ordinarily, it will include a person related by blood, marriage or adoption. On the facts of the case before it, the Honourable Supreme Court held that living with another woman may amount to an act of cruelty on the part of the husband for the purposes of judicial separation or dissolution of marriage, but however, it would not attract the wrath of Section 498-A of IPC. In fact, in the said decision, the Honourable Supreme Court took note of the judgment of the Kerala High Court in *John Idiculla's* (referred herein supra) case and did not approve of the ratio laid down in the said case.

11. In *Sunita Jha's case* (referred herein supra), which is also a case



arising out of Section 498-A of IPC, the Honourable Supreme Court held that merely because a female was living in the house and is alleged to be a wife, she cannot become a member of the family, in order to attract the provisions of Section 498-A of IPC.

12.The Karnataka High Court in *Harini's case* (referred herein supra), in a similar set of facts, held that the petitioner, who is suspected by the wife to be having an illicit relationship with her husband cannot be made a party in an application filed under Section 12 of Act 43 of 2005, as she does not fall within the meaning of respondent under Section 2(q).

13.The Odisha High Court in *Rabindra Kumar Mishra's case* (referred herein supra), again referring to Section 2(q), held that a person can be added as a respondent, only if he or she has a domestic relationship with the aggrieved person and not otherwise. The Court ultimately held that a mere allegation that the husband of the complainant had an illicit relationship with the third party may constitute criminal offenses, but cannot afford a ground to entangle the third party in a case under the Domestic Violence Act.



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14.Keeping in mind the ratio laid down in the above cases and also keeping in mind the scope of Section 2(q) and the proviso thereto, the petitioner would certainly not qualify to be arrayed as a respondent in the domestic violence proceedings.

15.In fact, as rightly pointed out by Mr.R.Prabhakar, learned counsel for the petitioner, the Special Court has not even addressed the issue on merits and has passed an order in the application, seeking to strike off the name of the petitioner, as if it is an application for maintenance. The Appellate Court, without properly appreciating the statutory provisions and placing reliance on *John Idiculla's* case, the ratio laid down in which case has not been approved by the Honourable Supreme Court, has concurred with the order passed by the Special Court.

16.In fact, the Appellate Court even rightly found that the revision petitioner cannot be a person, who lived together with the respondent in a shared household, but on an incorrect interpretation and application of proviso to Section 2 (q), the Appellate Court has dismissed the revision



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petition. In fact, the Appellate Court has placed heavy reliance on the decision of the Kerala High Court in *John Idiculla's case*, which was also a case arising under Section 498-A of IPC. The said decision, as already discussed, is no longer good law and in any event, the petitioner, by no stretch of imagination, qualifies to be a relative or to be in a domestic relationship with the complainant for the revision petitioner to be brought within the definition of “respondent” under Section 2(q). Neither the definition nor the proviso would apply to the case on hand. Hence the revision petitioner is entitled to succeed.

17. In fine, the Civil Revision Petition is allowed and the order of the III Additional District Court, Coimbatore, in Criminal Revision Petition.No.44 of 2023, confirming the order of the Special Court for Trial of Domestic Violence Act Cases, Coimbatore, in CMP.No. 12108 of 2022 in DVA.No.62 of 2021 is set aside. Consequently, the name of the revision petitioner is struck off from the proceedings in DVA.No.62 of 2021. There shall be no order as to costs.

30.01.2026

Neutral Citation: Yes

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Speaking Order
Index : Yes
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To

- 1.III Additional District Court, Coimbatore.
- 2.The Special Court for Trial of Domestic Violence Act Cases,
Coimbatore.

P.B. BALAJI,J.

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Pre-delivery order made in
CRP.No.4429 of 2024



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