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CRP No. 5044 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

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THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 5044 of 2023 and
CMP.No.29333 and 29335 of 2023**

1. C. Bakkiyam

2. V. Sivarajan

Petitioners

Vs

1. K.A. Janani

2.B. Sathish Kumar

Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India praying to call for the records pertaining to the proceedings in DVC No.47/2022 on the file of Honble Judicial Magistrate, Amnbattur.

For Petitioner(s): R.Radha Pandian

ORDER

The civil revision petition has been filed seeking to quash the complaint



preferred by the 1st respondent under the provisions of Domestic Violence Act.

2. The 1st petitioner is the father-in-law of the 1st respondent/complainant.

The 2nd petitioner is the friend of 2nd respondent/husband of the 1st respondent.

3. The learned counsel for the petitioners submitted that the allegations contained in the complaint preferred by the 1st respondent do not attract any of the provisions of the Domestic Violence Act. Hence, the learned Magistrate ought not have issued process against the petitioners.

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 petitioners 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 petitioners before the learned



Magistrate unless it is absolutely necessary. Consequently, the connected miscellaneous petitions are 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, Ambattur.



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