

IN THE COURT OF JUDICIAL MAGISTRATE NO.I PANRUTI.

Present: S.Geetha M.A .,LLM

Judicial Magistrate No.I Panruti

Thursday 2nd day of April– 2026

C.M.P.4885/2025

In

DVC 6/2024

1. Vijayasarithi,
2. Sivagami,
3. Durairaj,
4. Pranavadesigan,
5. Selvabarathi,
6. Anbarasi.

...Petitioner's/Respondent's

//vs//

Jamunarani,
D/o Subramaniyan.

...Respondent/Complainant

This Petition is coming before me on today in the presence of Advocate for Mr.B.Vetrivel Petitioner's/Respondent's and Advocate Mr.B.Basker for Respondent/Complainant and upon perusing the document, argument of both sides and having stood over for consideration till this Court delivered the following.

ORDER

GIST OF THE PETITION:

1. The Petitioner's/Respondent's has filed the present petition under Section 28 of DV Act r/w Order VII Rule 11 of CPC and stated that Respondent/Complainant has filed an incurable defective petition under the Protection of Women from Domestic Violence Act, 2005 thro' the protection officer before this Court and the same is liable to be dismissed in

limine for being incomplete, incurable, and not maintainable in law. That upon careful examination of the petition filed by the Respondent/Complainant, it is evident that the petition is completely silent on the prayers sought by the Respondent/Complainant from this Court. That a perusal of the petition reveals that there is no prayer clause mentioned anywhere in the petition, nor has the Respondent/Complainant specified what relief(s) she seeks from this court under the provisions of the DV Act. "A court should not grant relief for which no prayer or pleading was made". This principle is often expressed by the legal aphorism "Relief not founded on pleadings should not be granted".

2. The Petitioner's/Respondent's further stated that Section 12 of the DV Act empowers the Magistrate to pass various orders including protection orders, residence orders, monetary reliefs, custody orders, compensation orders, and interim orders as specified under Sections 18 to 22 of the Act. All are concerned with the civil nature of rights as viewed in ***Kunappareddy vs Kimapparedy Swarna Kumari (2016)11SCC 774***, it is clear that the nature of proceedings before the magistrate under chapter IV of DV Act is purely civil in nature. It is reiterated by Hon'ble Madras High Court in ***Dr. P. Pathmanathan & Others v. V. Monica & Another (2021. (2) CTC 57)***. That it is a fundamental requirement of law that every petition must clearly state the specific relief(s) sought by the Petitioner so that:

- (i) The Respondent can prepare an appropriate response;
- (ii) The Court can confine its adjudication to the reliefs claimed;
- (iii) The principles of natural justice are satisfied;
- (iv) There is certainty and clarity in the proceedings.

3. The Petitioner's/Respondent's condented that in the absence of any prayer clause, the petition suffers from the following fatal defects.

a) Non-compliance with mandatory requirements:

The petition does not comply with the mandatory requirements of pleadings as contemplated under Order VI and Order VII of the Code of Civil Procedure, 1908, and the provisions of DV Act 2005 and DV Rules 2006 which are applicable to proceedings under the DV Act by virtue of Section 28 thereof.

Sec. 12. Application to Magistrate.

- (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

(2) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

Section 9(b) of the Protection of Women from Domestic Violence Act, 2005, refers to the duties of a Protection Officer. Specifically, it outlines the duty to make application to the Magistrate on behalf of an aggrieved person, if she wishes, to obtain a protection order. The application must be made in the prescribed form and manner.

Section 37(2)(c) of the DV Act, 2005

Refers to the Central Government's rule-making power to prescribe the form and manner for a domestic incident report may be made. This means that if an aggrieved person reports a domestic violence incident, a specific format must be followed for the report.

Content of the rules: Subsection (2) of Section 37 specifies the matters for which the rules may provide, including the form and manner in which a domestic incident report may be made.

The Protection of Women From Domestic Violence Rules, 2006

Section: 5 read as under

Domestic incident reports

(1) Upon receipt of a complaint of domestic violence, the Protection Officer shall prepare a domestic incident report in Form I and submit the same to the Magistrate and forward copies thereof to the Police Officer in charge of the police station within the local limits of jurisdiction of which the dome aggrieved violence alleged to have been committed has taken place and to the service providers in that area.

(2) Upon a request of any aggrieved person, a service provider may record a domestic incident report in Form I and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence is alleged to have taken place. That the petitioner has not filed a Section. 12 petition a defective referral made from the protection officer. That it is a major procedural irregularity that the referral doesn't meet the fundamental requirements under Section 12 of DVC Act.

Section: 6. Applications to the Magistrate

(1) Every application of the aggrieved person under section 12 shall be in Form II or as nearly as possible thereto.

(2)An aggrieved person may seek the assistance of the Protection Officer in preparing her application under sub-rule and forwarding the same to the concerned Magistrate.

(3)In case the aggrieved person is illiterate, the Protection Officer shall read over the application and explain to her the contents thereof.

(4) The affidavit to be filed under sub-section (2) of section 23 shall be filed in Form III.

Section 27: Jurisdiction.

Here is section 27 of the DV act as read as under...

(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed;

or (b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

That the Applicant engineered the cause of action with an intention to file case and confer jurisdiction it is nothing but the abuse of legal process.

....residence at a place simply for the purpose of filing a case against the respondents cannot be a place which satisfy the term temporarily resides' as appears in Section 27 of the DV Act. As held in **Afia Rasheed Khan vs Mazharuddin Ali Khan** and others. Writ petition No. 4184/2021 in the High Court of Bombay.

b) Violation of principles of natural justice:

The Respondent is prejudiced as he is unable to understand what specific relief the Petitioner seeks, thereby denying him the opportunity to file an appropriate and effective replies.

c) Denial of fair opportunity:

Without knowing the specific relief sought, the Respondent cannot adequately defend himself or address the specific claims.

d) Vagueness and ambiguity:

The petition is vague, ambiguous, and does not disclose any cause of action or relief, rendering it non-maintainable

4. That Order VII Rule 11(a) of the Code of Civil Procedure, 1908 provides that the plaint shall be rejected where it does not disclose a cause of action, and a petition without prayer clause fails to disclose what relief is sought from the Court. That the absence of prayer clause is not a curable defect by way of amendment as it demonstrates that the Petitioner herself is unclear about what relief she seeks from this Court. That the following judicial precedents support the proposition that a petition without proper prayer clause is liable to be dismissed:

(i) The Hon'ble Supreme Court and various High Courts have consistently held that every petition must contain a clear prayer clause specifying the relief sought.

(ii) A petition without prayer is incomplete and does not constitute a valid pleading.

(iii) Relief cannot be granted unless specifically prayed for.

5. That continuing with such defective proceedings would be an abuse of the process of law and would cause grave prejudice and harassment to the Respondent. That the defect is fundamental in nature and goes to the root of the matter, rendering the entire petition void ab initio and liable to be dismissed at the threshold. That the Respondent has not waived any of his rights and is raising this objection at the earliest available opportunity. That no relief can be granted by this Court in the absence of any specific prayer or claim made by the Petitioner.

6. That it is in the interest of justice that the defective petition be dismissed.

GROUND:

A). Non-compliance with Statutory Requirements.

The petition does not comply with the requirements of Order VI and Order VII of CPC, which are applicable to DV proceedings by virtue of Section 28 of the DV Act.

B). Incomplete and Defective Pleading.

The petition is incomplete and defective as it does not comply with the mandatory requirements of pleadings and fails to meet the essential ingredients of a valid petition under the DV Act.

C). Violation of Principles of Natural Justice.

The absence of prayer clause violates the principles of natural justice as the Respondent is unable to understand the case he has to meet and is denied fair opportunity to defend himself effectively.

D). Absence of Prayer Clause.

The petition is liable to be dismissed as it does not contain any prayer clause whatsoever; thereby failing to specify what relief(s) the Petitioner seeks from this Court under the provisions of the DV Act.

E). No Cause of Action Disclosed.

In the absence of any specific prayer or relief sought, the petition fails to disclose any cause of action and is liable to be rejected under Order VII Rule 11 CPC.

F). Abuse of Process of Law.

Continuing with such fundamentally defective proceedings would amount to abuse of the process of law and would cause unnecessary harassment to the Respondent and leads to the miscarriage of justice.

G). Fundamental and Incurable defect.

The absence of prayer clause is a fundamental defect that goes to the root of the matter and is not curable by way of amendment, as it demonstrates lack of clarity on the part of the Petitioner herself.

H). No Relief can be granted.

This Court cannot grant any relief unless specifically prayed for, and in the absence of any prayer, no relief can be granted to the Petitioner.

Prayer:

In light of the facts, circumstances, and grounds stated above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Dismiss the Domestic Violence Petition bearing Case No. 6 of 2024 filed by the Petitioner for want of proper prayer clause and for being incomplete, defective, and not maintainable in law;
- b) Reject the petition under Order VII Rule 11 of the Code of Civil Procedure, 1908 read with Section 28 of the Protection of Women from Domestic Violence Act, 2005;
- c) Award costs of this application to the Respondent/Applicant;
- d) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice, equity, and good conscience.

GIST OF THE COUNTER:

1. The Respondent/Complainant stated that the Petition filed by the Petitioner's/Respondent's to reject the complaint is most vexatious, not maintainable in law and on facts and it is liable to be dismissed and denies all other allegations in the affidavit and petition except those that are specifically admitted herein. The allegations that the Petitioner's/Respondent's has filed an incurable defective petition under the Protection of Women from Domestic Violence Act, 2005 through the Protection Officer before this court are all false and the allegations hereby are specifically denied. The allegations that the petition filed by the Petitioner's/Respondent's is liable to be dismissed in limine for being incomplete, incurable, not maintainable in law are all false and the said allegations hereby are specifically denied and the petition is completely silent on the reliefs/prayers sought by the respondent herein are all false and the allegations hereby are specifically denied.

2. The Respondent/Complainant further stated that the allegations that there is no prayer clause mentioned anywhere in the petition, nor specified what reliefs she seeks from this court under the provisions of the D.V.C Act and a court should not grant relief for which no prayer or pleading was made and this principle is often expressed by the legal aphorism "Relief not founded on pleadings should not be granted" are all false and the said allegations hereby are specifically denied. The allegations that the interim reliefs specified under Sections 18 to 22 of the DVC Act are

concerned with the civil nature of rights are all false and the said allegations hereby are specifically denied. The allegations that the interim reliefs specified under Sections 18 to 22 of the DVC Act are concerned with the civil nature of rights are all false and the said allegations hereby are specifically denied. The respondent/complainant submits that she is seeking an Order under Section 18, 19, 20 and 22. The respondent has specifically mentioned about it in Form-II of the application.

3. The respondent/complainant stated that as per Section 28 of the DVC Act, "all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973". The Code of Civil Procedure, 1908 does not apply to the cases falling under the above Sections. The Protection Officer has filed the above application in a prescribed form prescribed under the DVC Act and Section 37 (2) (c) of the DVC Act is not a mandatory one. Under Section 12 (1) read with Rule 5 is only a procedural in nature. However, in a prescribed form, the Protection Officer has filed the Domestic Incident Report along with the complaint.

4. The respondent specifically submits that she has filed the main application in Form-II as prescribed under the DVC Act. The respondent specifically submits that she is residing at No.8/2, Aruljothi Nagar, Panruti Town within the jurisdiction of the Panruti Police limit. Hence, this Hon'ble court is having jurisdiction to entertain and decide the case. The respondent/complainant submits that the Order VII Rule 11 (a) of the Code of Civil Procedure, 1908 is not applicable to the complaint filed under the DVC Act. The allegations that the proceedings would be an abuse of the process of law and would cause grave prejudice and harassment to the petitioners are all false and the said allegations hereby are specifically denied. The allegations that the entire petition is void ab initio and liable to be dismissed at the threshold are all false and the allegations hereby are specifically denied. The Grounds mentioned in the application filed by the petitioners are not at all related to the complaint filed by the respondent. This respondent/complainant reserves his right to file additional counter if any later. This respondent/complainant prays this Court dismiss this petition with cost and render justice.

POINT FOR CONSIDERATION:

Whether this petition is to be allowed or not?

POINT:

1. This Court has given its anxious consideration to the rival submissions made on either side and meticulously perused the entire materials available on record. The core contention raised by the petitioners/respondents is that the Domestic Violence Petition in D.V.C. No. 6 of 2024 is liable to be rejected at the threshold on the alleged ground that the petition does not contain a specific prayer clause and therefore fails to disclose any cause of action. According to the petitioners/respondents, such omission constitutes a fundamental and incurable defect attracting rejection under Order VII Rule 11 CPC.

2. At the outset, this Court finds it necessary to examine the statutory scheme governing proceedings under the Protection of Women from Domestic Violence Act, 2005. Section 12 of the Act specifically enables an aggrieved person, or a Protection Officer on her behalf, to present an application to the Magistrate seeking one or more reliefs under the Act. Further, as per Rule 6 of the Protection of Women from Domestic Violence Rules, 2006, such application shall be in Form-II or as nearly as possible thereto. The said Form is not a mere procedural format but a structured statutory document which itself contains specific columns indicating the nature of reliefs sought, including protection order, residence order, monetary relief, compensation, and other incidental reliefs.

3. In the present case, the records clearly disclose that the application has been presented through the Protection Officer in the prescribed format and is accompanied by the Domestic Incident Report. A meaningful reading of the Form-II application reveals that the aggrieved person has indeed indicated the nature of reliefs sought under the relevant provisions of the Act. Therefore, the contention that the petition is completely bereft of any prayer is factually incorrect and legally untenable.

4. It is pertinent to note that proceedings under the Domestic Violence Act stand on a different footing when compared to conventional civil suits governed strictly by the Code of Civil Procedure. The Act is a piece of social welfare legislation intended to provide immediate and efficacious remedies to victims of domestic violence. The procedural requirements under the Act are designed to be flexible and victim-centric. Hence, insistence

on rigid compliance with technical rules of pleadings, as applicable to civil suits, would defeat the very object and purpose of the enactment.

5. The reliance placed by the petitioners/respondents on Order VII Rule 11 CPC is also misplaced. Though Section 28 of the Act provides that proceedings under certain provisions may be governed by the Code of Criminal Procedure, it also confers discretion upon the Magistrate to adopt appropriate procedure. The importation of provisions of CPC, particularly those relating to rejection of plaint, cannot be applied in a mechanical manner to proceedings under the Domestic Violence Act, especially when such application would result in denial of substantive justice.

6. Even assuming for the sake of argument that there is some defect in the manner of drafting the petition, the same cannot be termed as a fundamental or incurable defect going to the root of the jurisdiction of this Court. At best, it would amount to an irregularity which is curable and does not warrant rejection of the entire proceedings at the threshold. The law is well settled that procedural defects which do not affect the substance of the claim cannot be elevated to the status of fatal infirmities.

7. The further contention of the petitioners/respondents that they are prejudiced due to absence of clarity in the relief sought is also without merit. A holistic reading of the complaint, Domestic Incident Report, and Form-II application would sufficiently inform the respondents about the nature of allegations and the reliefs claimed, thereby enabling them to effectively defend the proceedings. The plea of violation of principles of natural justice, therefore, does not stand to reason.

8. This Court also cannot lose sight of the stage at which the present petition has been filed. The main Domestic Violence Petition is still pending adjudication, and the parties have ample opportunity to let in evidence and put forth their respective contentions. Entertaining such a technical objection at this stage would not only delay the proceedings but would also frustrate the legislative intent of providing speedy relief to the aggrieved person.

9. On a careful evaluation of the entire circumstances, this Court is of the considered view that the present petition does not raise any substantial legal ground warranting interference at the threshold. On the contrary, it appears to be an attempt to stall the proceedings on hyper-technical grounds rather than addressing the merits of the case.

Therefore, this Court holds that:

- The Domestic Violence Petition has been filed in accordance with the statutory framework;
- The reliefs sought are discernible from the prescribed format and accompanying materials;
- The alleged defect, even if assumed, is not fatal or incurable;
- The invocation of Order VII Rule 11 CPC is misconceived in the context of proceedings under the Domestic Violence Act;
- The present petition is premature, devoid of merits, and not maintainable at this stage.

10. In view of the foregoing discussion, this Court finds that no valid or sufficient grounds have been made out to allow this petition. **In the result, this petition is dismissed. No Costs.**

This order is dictated by me directly to the Typist and she has directly typed in the Computer and corrected and pronounced by me in open Court on this 2nd day of April 2026.

**Judicial Magistrate No.I
Panruti.**