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CRP No.1876 of 2



DATED: 03-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 1876 of 2024 and
CMP Nos.9857 and 9859 of 2024**

1. Mohamed Irphan

S/o.Abdul Nazer, No.5/95A, Bazzar St,
Aloor, Kalkulam,
Kanniyakumari 629 801.

2. J.Abdul Nazer

S/o.Jamal Mohaideen, No.5/95A,
Bazzar St, Aloor, Kalkulam,
Kanniyakumari 629 801.

3. Gowser Jisreen

W/o.Abdul Nazer, No.5/95A,
Bazzar Street, Aloor, Kalkulam,
Kanniyakumari 629 801.

Petitioner(s)

Vs

Fathima Basareen

W/o.A.Mohamed Irphan, No.51/42
Thiruvankadam St, Pudupet, Chennai 2.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to call for the records pertaining to the complaint filed by the respondent in DVC.No.201/2023 pending on the file of the learned Metropolitan Magistrate



Additional Mahila Court, at Egmore, Chennai and set aside the same as illegal.

For Petitioner(s): Mr. S.Mohamed Ansar

For Respondent(s): Mr.K.Amjath khan

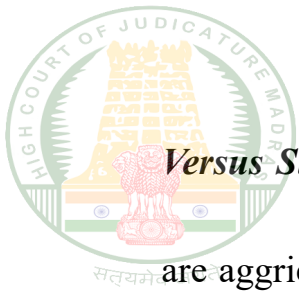
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ORDER

This civil revision petition is filed seeking to quash the complaint preferred by the respondent/wife under the provisions of the Domestic Violence Act.

2. The first petitioner is husband and the 2nd and 3rd petitioners are the parents in-law of the respondent. It is the case of the petitioners that the respondent filed a false complaint against the petitioners just to take vengeance against them. It is further stated by the petitioners that based on the said vexatious complaint, the Magistrate ought not to have issued process to the petitioners.

3. In view of the Law settled by this Court in *Arul Daniel and Others*



Versus Suganya reported in (2022) SCC Online Mad 5435, if the petitioners

are aggrieved by the initiation of the proceedings under the Domestic Violence

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Act, it is for them to move the very same Magistrate raising preliminary issues.

The relevant observation of Full Bench 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*



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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.

Hence, this court is not inclined to exercise its Supervisory Power available under Article 227 of Constitution of India to strike off the complaint.

4. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed. The petitioners are at liberty to move the concerned Magistrate for getting appropriate remedy as per law laid down in *Arul Daniel case*.

5. Taking into consideration the proceedings initiated before learned Magistrate is predominantly civil in nature, the personal appearance of the petitioners during enquiry before Magistrate is dispensed with, unless their personal appearance is absolutely necessary.



CRP No.1876 of 2



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Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The Metropolitan Magistrate,
Additional Mahila Court, Egmore,
Chennai.



WEB COPY

CRP No.1876 of 2



S.SOUNTHAR, J.

MST

CRP No.1876 of 2024



WEB COPY

CRP No.1876 of 2



03.12.2025