



2026:AHC:41547

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 34480 of 2025

Pradeep Singh Thakur And Another

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Swetashwa Agarwal, Yash Raj Verma
Counsel for Opposite Party(s) : Vineet Sankalp, G.A.

Court No. - 73

HON'BLE DEEPAK VERMA, J.

1. Heard Sri Swetashwa Agarwal, learned Senior Advocate assisted by Sri Arpit Khanna, learned counsel for the applicants, Sri Vineet Sankalp, learned counsel for opposite party no.2 and learned A.G.A. for the State.
2. This application under Section 528 BNSS has been filed by the applicant to quash the impugned order dated 26.08.2025 passed by the Court of Civil Judge (J.D.)/F.T.C. II, Gautam Budh Nagar, in Complaint Case No.1879/2025 'Ananya Vs Sahil Thakur & Others', along with the entire complaint proceedings under Section 12 of Protection of Women from Domestic Violence Act, 2005.
3. Sri Agarwal, Sr. Advocate for applicants' counsel submitted that present application/complaint has filed against the impugned order dated 26.08.2025 passed by court of Civil Judge (Junior Division)/FTC-II, Gautam Budh Nagar under Section 12 read with Sections 19, 20, 22 and 23 of Protection of Women from Domestic Violence Act, 2005. Opposite party No.2 is daughter-in-law of applicants. Opposite party no.2 has lodged complaint under Section 12 read with Sections 19, 20, 22 and 23 of Protection of Women from Domestic Violence Act against the applicants and her husband-Sahil Thakur alleging therein that marriage between opposite party no.2 and son of applicants was solemnized on 25.11.2024 as per Hindu Rites and Rituals. Complainant after marriage, living with her husband and staying in the shared household at the first floor of the House No.602, Sector 21D, Faridabad, Haryana along with

her father-in-law, mother-in-law, sister-in-law (unmarried) and Grand mother-in-law, who were resided on the ground floor of the house. Applicants and other members of family compelled and forced the complainant to be taken away by her parents to her parental house and was deserted and thrown out from her matrimonial house on 08.05.2025 and later on she was not permitted to return to her matrimonial house. The shared household is an ancestral house of her husband, which was mutated in the name of applicant. Complainant used to stay on first floor of the house and rest of the family members used to stay on ground floor and kitchen was common. Complainant lodged complaint stating therein that she was not only physically assaulted but also was mentally tortured by her in-laws as well as harassed for dowry. After six months of marriage, instant complaint is being lodged. Complainant is currently residing with her parents and is completely emotionally dependent upon them. The complainant restrained by the applicants to re-enter in the matrimonial house, as a result thereof, she is compelled to stay at her parental house, as such, overburdened the parents of the complainant, whereas husband is leading luxurious life who has an income of Rs.4,50,000/- and is a Managing partner in Tablero Shutter (India) Pvt. Ltd., Faridabad and has joint family business in Joy Forex Pvt. Ltd. at Karol Bagh. The complaint was filed with prayer to pass protection order U/s 18 of Protection of Women from Domestic Violence Act, prohibiting acts of domestic violence against the complainant by the in-laws and direct the applicants to reinstate the complainant on the first floor of the shared household of House No.602, Sector 21D, Faridabad or in alternate to provide an alternative residence to the complainant and to restrain applicants from destroying all the personal belongings and Stridhan of the complainant, therefore, after lodging the complaint, learned Civil Judge took cognizance and issued notice to applicants. Without DPO report, learned Civil Judge passed interim order in favour of opposite party no.2/complainant, on 26.08.2025, which is challenged herein. Vide order dated 26.08.2025, learned Civil Judge has directed the applicants and complainant's husband that they should not cause any act of domestic violence with the complainant and let her reside in the matrimonial house being in House No.602, Sector 21-D, First floor, Faridabad. Till the interim application is decided after related arguments by both the parties.

4. Applicants' counsel further submitted that instant complaint has been lodged with malicious intention only to harass the applicants as applicants are father-in-law and mother-in-law and applicants reside at their self acquired property situated at House No.602, Sector 21-D, Faridabad since last 30 years along with their mother-Smt. Pushpa Devi, aged about 84 years and two children, namely, Mannat Thakur (unmarried sister-in-law) and Sahil Thakur (husband of complainant). Mother of applicant No.1, namely, Pushpa Devi has been confined to bed pursuant to severe old age ailment and she was recently diagnosed with Psychosis, a situation where a person becomes mentally unstable. Applicant No.1 is a simple businessman, who engaged in his business of foreign exchange from last 22 years and applicant No.2 is a house wife, who performs her household duties. Applicant No.2 is a severe heart patient and had undergone Angioplasty in the year 2023 and since then she is under observation and undergoes dialysis on frequent occasion for cardiac disease. Opposite party no.2/complainant, being highly educated and qualified lady having remarkable academic excellence has been working for herself throughout the course of time and it is apparent from complaint that she is employed as Senior Manager in CBRE South Asia Pvt. Ltd. and getting salary Rs.1,76,385/- approximately and getting renting allowance from the company. Applicants have always supported the complainant and have always decorously discharged their obligations. The applicants filed a Civil Suit for injunction before the court of Civil Judge (JD), Faridabad bearing Case No.2442 of 2025 for restraining their son and his wife/opposite party No.2 from forcefully entering into their house and causing interference in their peaceful life and possession thereof, wherein notices were issued against the opposite party No.2 vide order dated 21.06.2025 passed by Civil Judge (JD), Faridabad. Pursuant to the initiation of civil proceedings at the instance of the applicants, the wife/opposite party No.2 came out with a present case levelling all sort of false and frivolous allegation so as to harass the applicants and settle scores on account of strained cordial relations among the parties. On perusal of contents of complaint filed U/s 12 of Protection of Women from Domestic Violence Act moved by opposite party no.2 reveals that vague and frivolous allegation has been levelled against the applicants and false and bogus story has been cooked up to harass the applicants and

her husband. Learned Civil Judge after receiving complaint from opposite party No.2, without getting report from DPO, passed order on 26.08.2025 directing the police station to provide necessary protection to the wife/opposite party No.2 and to reinstate her at the house of applicants. The impugned order dated 26.08.2025, is illegal and has passed without an proper reason and the same is abuse of process of law.

5. Counsel for applicants' further submitted that Section 23 of Protection of Women from Domestic Violence Act, 2005 provides that *"Power to grant interim and ex parte orders.—(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper. (2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent."*

6. Applicants' counsel submits that in view of the provision provided U/s 23 of the Act, the order passed by learned Civil Judge is cryptic and non speaking order and without recording any satisfaction. The present order impugned is challenged herein. The house in dispute in which opposite party no.2 was directed to be reinstated in the shared household by the applicants, is of no concern with the husband of opposite party No.2. In regard to property, applicant has already filed civil suit before the Civil Court and notice has been issued against the defendant/respondent. In support of his contention, he has placed reliance over the judgment passed by Hon'ble The Apex Court in the case of Satish Chander Ahuja Vs. Sneha Ahuja, (2021) 1 Supreme Court Cases 414, the relevant para 30 is quoted herein below:-

"30. From the submissions of the learned counsel for the parties following questions arise for determination in this appeal:

30.1 (1) Whether definition of shared household under Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 has to be read to mean that shared

household can only be that household which is household of joint family or in which husband of the aggrieved person has a share?

30.2 (2) Whether judgment of this Court in S.R. Batra and Anr. Vs. Taruna Batra, (2007) 3 SCC 169 has not correctly interpreted the provision of Section 2(s) of Protection of Women from Domestic Violence Act, 2005 and does not lay down a correct law?

30.3 (3) Whether the High Court has rightly come to the conclusion that suit filed by the appellant could not have been decreed under Order XII Rule 6 CPC?

30.4 (4) Whether, when the defendant in her written statement pleaded that suit property is her shared household and she has right to residence therein, the Trial Court could have decreed the suit of the plaintiff without deciding such claim of defendant which was permissible to be decided as per Section 26 of the Act, 2005?

30.5 (5) Whether the plaintiff in the suit giving rise to this appeal can be said to be the respondent as per definition of Section 2(q) of Act, 2005 ?

30.6 (6) What is the meaning and extent of the expression "save in accordance with the procedure established by law" as occurring in Section 17(2) of Act, 2005 ?

30.7 (7) Whether the husband of aggrieved party (defendant) is necessary party in the suit filed by the plaintiff against the defendant?

30.8 (8) What is the effect of orders passed under Section 19 of the Act, 2005 whether interim or final passed in the proceedings initiated in a civil court of competent jurisdiction?"

7. He has further placed reliance over the judgment passed by Hon'ble The Apex Court in the case of Shyamlal Devda and others Vs. Parimala, in Criminal Appeal No.141 of 2020 on 22.01.2020, the relevant para 8 is quoted herein below:-

"8. Section 18 of the Domestic Violence Act relates to protection order. In terms of Section 18 of the Act, intention

of the legislature is to provide more protection to woman. Section 20 of the Act empowers the court to order for monetary relief to the “aggrieved party”. When acts of domestic violence is alleged, before issuing notice, the court has to be prima facie satisfied that there have been instances of domestic violence”

8. *Per contra*, learned counsel for opposite party no.2 and learned AGA have vehemently opposed the submission raised by applicants' counsel and submit that order challenged herein is interlocutory order and learned Civil Judge has exercise power given U/s 23 of the Act by which learned Civil Judge may pass an interim order as he deems just and proper. Clause 2 of Section 23 of the Act states that if Civil Judge is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an *ex parte* order on the basis of the affidavit. Learned Civil Judge, after considering complaint of opposite party no.2, has granted interim protection and this interim order has been challenged by the applicants is itself is not maintainable in the eyes of law.

9. Considered the argument raised by both the counsels, the record reveals that opposite party No.2, who is daughter-in-law of the applicants, married with applicants' son, on account of matrimonial discord, she moved application U/s 12 of Protection of Women from Domestic Violence Act. The Hon'ble Apex Court in the case of Shaurabh Kumar Tripathi Vs. Vidhi Rawal, 2025 SCC Online SC 1158 has discussed in para 32, 33, 34 and 35, the same is quoted herein below:-

"32. The second part of Section 482 saves the inherent power of the High Court to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. Therefore, in a given case where a learned Magistrate is dealing with an application under Section 12(1), the High Court can exercise the power under the second part of Section 482 to prevent abuse of the process of any Court or to secure the ends of justice. Hence, the High Court can exercise jurisdiction under Section 482 of the CrPC to quash proceedings of an application under Section 12(1) or orders passed in accordance with Sections 18 to 23 of the DV Act, 2005.

33. Now, the question is what is the scope of interference under Section 482 with the proceedings under the DV Act, 2005. We must make a distinction between proceedings initiated on the basis of an application under Section 12(1) of the DV Act, 2005, which are predominantly of a civil nature and the proceedings before the Criminal Court for prosecuting a person for any offence. Setting criminal law in motion has very serious consequences affecting the liberty of a human being, as the person against whom criminal law is set in motion can be arrested and sentenced to undergo imprisonment.

34. We have already referred to the objects and reasons of the DV Act, 2005, which are reproduced in the decision of this Court in the case of *Kunapareddy alias Nookal a Shanka Balaji v. Kunapareddy Swarna Kumari*. The basic object of the DV Act, 2005, is to protect women from being victims of domestic violence and also to prevent the occurrence of domestic violence in society. It seeks to protect the right of women to reside in their matrimonial home or shared household. Therefore, there is a provision for passing a Residence Order under Section 19. Section 18 provides for granting Protection Orders, which are essentially to prevent the commission of acts of domestic violence against women. The orders which can be passed under Section 20 are with the object of compensating a woman for loss caused due to domestic violence. The custody orders regarding children are also essentially to prevent domestic violence. Even Section 22 provides for passing compensation orders for the injuries, including mental torture and emotional distress, caused by acts of domestic violence. If a complaint is entertained under Section 12(1), the erring respondent cannot be punished as is understood in criminal law. He can be subjected to various orders as provided in Sections 18 to 23. A respondent in the application can be prosecuted only if he commits a breach of a protection order or an interim protection order. Therefore, the consequences of entertaining an application under Section 12(1) are not as drastic as the consequences of setting criminal law in motion. No doubt, orders that can be passed under the DV Act, 2005, can also be very drastic, but in proceedings under Section 12(1), a respondent cannot be sentenced to suffer imprisonment or a fine as in a criminal trial.

35. When it comes to exercise of power under Section 482 of the CrPC in relation to application under Section 12(1),

the High Court has to keep in mind the fact that the DV Act, 2005 is a welfare legislation specially enacted to give justice to those women who suffer from domestic violence and for preventing acts of domestic violence. Therefore, while exercising jurisdiction under Section 482 of the CrPC for quashing proceedings under Section 12(1), the High Court should be very slow and circumspect. Interference can be made only when the case is clearly of gross illegality or gross abuse of the process of law. Generally, the High Court must adopt a hands-off approach while dealing with proceedings under Section 482 for quashing an application under Section 12(1). Unless the High Courts show restraint in the exercise of jurisdiction under Section 482 of the CrPC while dealing with a prayer for quashing the proceedings under the DV Act, 2005, the very object of enacting the DV Act, 2005, will be defeated."

10. The Hon'ble Apex Court in the case of Satish Chander Ahuja Vs. Sneha Ahuja, (2021) 1 Supreme Court Cases 414, has observed in paragraphs 33, 34 and 35, the same is quoted herein below:-

"33. The domestic violence in this country is rampant and several women encounter violence in some form or the other or almost every day, however, it is the least reported form of cruel behavior. A woman resigns her fate to the never ending cycle of enduring violence and discrimination as a daughter, a sister, a wife, a mother, a partner or a single woman in her lifetime. This non-retaliation by women coupled with the absence of laws addressing women's issues, ignorance of the existing laws enacted for women and societal attitude makes the women vulnerable. The reason why most cases of domestic violence are never reported is due to the social stigma of the society and the attitude of the women themselves, where women are expected to be subservient, not just to their male counterparts but also to the male's relatives.

34. Till the year 2005, the remedies available to a victim of domestic violence were limited. The women either had to go to the civil court for a decree of divorce or initiate prosecution in the criminal court for the offence punishable under Section 498-A of the IPC. In both the proceedings, no emergency relief/reliefs is/are available to the victim. Also, the relationships outside the marriage were not recognized. This set of circumstances ensured

that a majority of women preferred to suffer in silence, not out of choice but of compulsion.

35. The enactment of Act, 2005 is a milestone for protection of women in this country. The Statement of Objects and Reasons of the Protection of Women from Domestic Violence Bill, 2005 marks the objective which was sought to be achieved by the enactment. It is useful to reproduce the Statement of Objects and Reasons, which are in the following words:-

“4. The Bill, inter alia, seeks to provide for the following-

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(iii) It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.”

11. From the record, it is apparent that opposite party No.2 was thrown out of the house bearing House No.602, Sector 21D, Faridabad, Haryana and the Hon'ble Apex Court in Shaurabh Kumar Tripathi Vs. Vidhi Rawal has held in para 35 that while exercising jurisdiction under Section 482 of the Cr.P.C. for quashing proceedings under Section 12(1), the High Court should be very slow and circumspect. Interference can be made only when the case is clearly of gross illegality or gross abuse of the process of law. Generally, the High Court must adopt a hands-off approach while

dealing with proceedings under Section 482 for quashing an application under Section 12(1). Unless the High Courts show restraint in the exercise of jurisdiction under Section 482 of the CrPC while dealing with a prayer for quashing the proceedings under the DV Act, 2005, the very object of enacting the DV Act, 2005, will be defeated. Moreover, the order challenged herein is interlocutory order and parties have to produced the evidence to learned Civil Judge and learned Civil Judge has to appreciate the evidence produced by the parties. The Act provides power to Magistrate to pass interim order. The order challenged here, passed by learned Magistrate, discloses that the same has been passed after appreciating facts and material evidence available on record and due application of mind.

12. In view of the Apex Court judgment and the order challenged herein, does not disclose any material illegality to be interfered. Accordingly, the present 528 BNSS application is hereby ***dismissed*** with the aforesaid observation.

(Justice Deepak Verma)

February 24, 2026

Nitin Verma