

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.107 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Kaimur (Bhabua)

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1. Rohit Bharti, S/o Suresh Bharti, R/o Mohalla- 96 Civil Line Roadways Bus Stand Pratapgarh, Distt- Pratapgarh (Uttar Pradesh).
 2. Suresh Bharti, S/o Late Ramswaroop Bharti, R/o Mohalla- 96 Civil Line Roadways Bus Stand Pratapgarh, Distt- Pratapgarh (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Supriya Devi, W/o Rohit Bharti, R/o Mohalla- 96 Civil Line Roadways Bus Stand Pratapgarh, Distt- Pratapgarh (Uttar Pradesh). At present Saroj Kunwar Ward no. 16, P.S.- Bhabhua, Distt- Kaimur (Bhabhua).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pawan Kumar Singh, Advocate
For the O.P. No. 2	:	Mr. Kumar Sunil, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 22-04-2025 The instant revisional application has been filed against the order dated 30th November 2022 passed by the Learned Additional Session Judge-XI, Kaimur at Bhabhua in Cr. Appeal No. 44 of 2019, affirming the order dated 05th November 2018 passed in Domestic Violence Case No. 845 of 2016 by A.C.J.M.-7, Kaimur at Bhabhua, by which the learned court below directed the petitioners to pay Rs.7000/- per month to the Opposite Party No. 2.

2. That the Opposite Party No. 2, Supriya Devi, has filed Domestic Violence Case No. 845 of 2016 u/s 12 of the



Protection of Women from Domestic Violence Act, 2005, against the petitioners, stating therein that her marriage was solemnized with the petitioner No. 1 on 11th of March, 2011, according to Hindu rites and rituals. Thereafter, on the next day, she went to her matrimonial house. It is further stated that on the eve of marriage, several gifts, ornaments, and clothes were given by her maternal side. For one year there were cordial relations between both parties, and out of their wedlock, a female child was born on 05th September, 2012. Thereafter, her in-laws started demanding Rs. 2 lacs in cash, and when she refused to claim such money from her parents to satisfy the illegal demand of the matrimonial relations, she was tortured mentally and physically both due to which she and her baby became ill. The matter came to the knowledge of her mother, who came and took away her daughter to Bhabhua, where her medical treatment was done. But she later returned to her matrimonial house. On 23rd of December 2015, the mother-in-law of the opposite party died, and the Petitioners started pestering the Opposite Party to go back to her maternal home, which the Opposite Party resisted. Soon the Petitioner no. 1 told the Opposite Party that her mother was not doing well and she should go and visit her mother. The Petitioner no. 1 dropped the



Opposite Party right in front of her maternal home and promised to come back in an hour, but he never returned and switched off his phone permanently, and the Opposite Party was not able to contact the Petitioners.

3. Perusing the annexures, this Court has not come across any Domestic Incident Report. The DIR is typically filed to provide a detailed account of the events and circumstances surrounding the domestic violence situation. It plays an important role in the legal process by helping authorities to understand the nature of the incident, the individuals involved, and any immediate actions that need to be taken to ensure safety or to press criminal charges. Section 9 of the Domestic Violence Act mandates the protection officer to make a Domestic Incident Report to the Magistrate. This requirement ensures that incidents of domestic violence are formally documented, which helps protect the victim and allows for appropriate legal action. Though this Court is mindful to note the ruling of the Supreme Court in ***Prabha Tyagi v. Kamlesh Devi***, reported in **(2022) 8 SCC 90**, where the bench held as under:

"75.1." (i) Whether the consideration of Domestic Incidence Report is mandatory before initiating the proceedings under the Domestic Violence Act, 2005 to invoke substantive



provisions of Sections 18 to 20 and 22 of the said Act?"

It is held that Section 12 does not make it mandatory for a Magistrate to consider a domestic incident report filed by a Protection Officer or service provider before passing any order under the DV Act. It is clarified that even in the absence of a domestic incident report, a Magistrate is empowered to pass both ex parte or interim as well as a final order under the provisions of the DV Act."

4. Parties in the instant case are divorced, but the question to dive into is whether the divorced couple can file a case under Domestic Violence Act. The laws surrounding domestic violence are typically intended to protect individuals from abusive relationships, regardless of whether they are still married or have been divorced. This is because the law recognizes that domestic violence can persist or even escalate after a divorce, especially in cases of ongoing harassment, financial abuse, or threats.

5. In the case of ***Juveria Abdul Majid Patni v. Atif Iqbal Mansoori***, reported in ***(2014) 10 SCC 736***, the Supreme Court held that when domestic violence once committed, a subsequent decree of divorce will not absolve the respondent from the liability under the DV Act.



6. Bearing the judicial precedent in mind, let me examine the case of the parties. Admittedly, the marriage of the petitioner no. 1 with the opposite party no. 2 was solemnized in the year 2011; the opposite party no. 2 herself stated that after marriage her relation with the petitioner no. 1 was cordial. Since 2012, she was subjected to torture and harassment. Since 20th February 2016, the opposite party no. 2 has been residing at her paternal home. The petitioner no. 1 filed a suit for divorce in the year 2016, which was registered as Divorce Case No. 78 of 2016 in the court of the learned Principal Judge, Family Court, Pratapgarh (U.P.). The said suit was decreed *ex parte* on 29th April 2017.

7. Thus, on and from 29th April 2017, there was no relationship between the petitioner no. 1 and the opposite party no. 2 as husband and wife. The marriage between the parties was dissolved by a decree of divorce. The opposite party no. 2 has been residing at her paternal home since 20th February, 2016. Thus, relying on the decision of ***Juverie Abdul Majid Patni*** (Supra), it is the duty of the Court to consider as to whether any domestic violence was caused during the period between 2012 till 20th February, 2016. After 20th February 2016, there was no domestic relationship between the parties, as the



petitioner no. 1 and the opposite party no. 2 used to live separately in their respective houses. Subsequently, the marriage between the parties was dissolved.

8. In *Sadhana v. Hemant*, reported in 2019 SCC OnLine Bom 659, a Co-ordinate Bench held, relying on the decision of the Hon'ble Supreme Court in the case of *Inderjit Singh Grewal v. State of Punjab*, reported in (2011) 12 SCC 588, that on and from the date of decree for dissolution of marriage, the opposite party no. 2 was not the wife of the petitioner no. 1 and, therefore, the petition under Section 12 of the Protection of Women against Domestic Violence Act, 2005 is not maintainable from the date of decree of divorce on 29th April, 2017. There is no domestic relationship as husband and wife from the date of the decree of dissolution of marriage, so the opposite party no. 2/wife, is not entitled to get any relief under the Act on and from 29th April, 2017.

9. It is for the trial court to consider afresh, on the basis of a Domestic Incident Report, whether the opposite party no. 2/wife is entitled to get any relief under the Act during the period between 2012 and 29th April, 2017. In view of such finding by this Court, the impugned order dated 30th November, 2022, passed by the learned Additional Sessions Judge-XI,



Kaimur at Bhabhua, in Cr. Appeal No. 44 of 2019, affirming the order dated 05th November, 2018, passed in Domestic Violence Case No. 845 of 2016 by ACJM-7, Kaimur at Bhabhua, is set aside.

10. Accordingly, the instant revision is allowed. The Domestic Violence case No. 845 of 2016 be remitted back to the learned ACJM-7, Kaimur at Bhabhua, for fresh consideration of the case in the light of the observation made hereinabove.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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