

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14357 of 2024

Arising Out of PS. Case No.-516 Year-2023 Thana- SARAN COMPLAINT CASE District-
Saran

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1. Raj Lakshmi Mishra W/O Late Sachidanand Mishra R/O Village-
Dupahi Agrawali, P.S- Dubahar, Distt.- Balia, Uttar Pradesh And
Presently Residing At Flat No. 303, Lotus Mansion, Gola Road,
Ramjaipal Nagar, Opposite Madhurani Complex, P.S.-Danapur,
District- Patna, Bihar.
 2. Hrishikesh Mishra S/O Late Sachidanand Mishra R/O Village- Dupahi
Agrawali, P.S- Dubahar, Distt.- Balia, Uttar Pradesh And Presently
Residing At Flat No. 303, Lotus Mansion, Gola Road, Ramjaipal
Nagar, Opposite Madhurani Complex, P.S.- Danapur, District- Patna,
Bihar.
 3. Anu Mishra @ Annu Mishra W/O Hrishikesh Mishra R/O Village-
Dupahi Agrawali, P.S- Dubahar, Distt.- Balia, Uttar Pradesh And
Presently Residing At Flat No. 303, Lotus Mansion, Gola Road,
Ramjaipal Nagar, Opposite Madhurani Complex, P.S.- Danapur,
District- Patna, Bihar.

... .. Petitioners

Versus

1. The State Of Bihar
2. Priyanka Kumari W/O Late Brajesh Mishra D/O Jagdish Pandey
Presently Residing At Village- Dhanadih, P.S- Rasulpur, Distt.- Saran,
Bihar.

... .. Opposite Party

Appearance :

For the Petitioners	:	Mrs. Rashmi Jha, Advocate Mr.Prashant Kumar, Advocate
For the State	:	Mr.Brajendra Nath Pandey,APP
For the O.P. No.2	:	Mr.Shekhar Singh, Sr. Advocate Mr.Sumit Kumar, Advocate Mr.Avinash Kr. Singh, Advocate Mr.Prasoon Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
C.A.V. JUDGMENT

Date : 09-07-2025

Heard Mrs. Rashmi Jha, learned counsel appearing on
behalf of the petitioner and Mr. Shekhar Singh, learned senior



counsel appearing for the opposite party no. 2.

2. The present application has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (in short, the 'Cr.P.C.') to quash and set aside the entire proceeding, including the order dated 31.03.2023 in Complaint Case No. 516/2023 (Enquiry Case No. 627/2023) under Section 12 of the Domestic Violence Act, 2005, (hereinafter referred to as the "D.V. Act") pending before learned S.D.J.M., Chapra at Siwan.

3. The prosecution's case in brief, is that the complainant entered into matrimony with the deceased Brajesh Mishra, son of petitioner no. 01 on 24.11.2016. it is alleged that subsequent to the marriage, the complainant was subjected to cruelty and harassment in connection with unlawful demands for dowry. The complainant alleged that after the demise of her husband in the year 2022, the petitioners were shifted to the residential flat, which is situated at Danapur, Patna, and have kept in their possession, all the documents like insurance paper, property documents etc. She further alleged that due to assault and torture, she



was living in her parent's house. Hence, the present complaint case seeking redressal of the aforesaid grievances.

4. It is submitted by Mrs. Rashmi Jha, learned counsel appearing for the petitioners that petitioner no. 1 is the mother-in-law, petitioner no. 2 is the brother-in-law (Jaith) and petitioner no. 3 is the sister-in-law (Jethani) of the opposite party no. 2. It is submitted that all sequence of alleged false implication under the provisions of Domestic Violence Act commenced only after the demise of her husband in the year 2022, who succumbed to cancer. It is pointed out that the husband of O.P. No. 2 was working with a bank and was posted at Kolkata. The present case was lodged by O.P. No. 2 on 01.03.2023 after receipt of notice in CWJC No. 2846/2022, filed by petitioner no. 1, wherein this Hon'ble Court was pleased to issue notice to O.P. No. 2 vide its order dated 09.02.2023.

5. It is further submitted by Mrs. Jha that the aforesaid writ petition was preferred by the petitioners seeking release of the NPS amount and other death benefits of Late Brajesh Mishra, deceased husband of O.P. No. 2, for



the purpose of adjustment towards the outstanding home loan liability availed for the purchase of Flat No. 303, Lotus Mansion, Gola Road, Ramjaipal Nagar, Opposite Madhurani Complex, Danapur, Patna, on 17.10.2016. It is submitted that ever since their marriage on 24.11.2016, the O.P. No. 2 has hardly stayed with her husband, i.e., the son of petitioner no. 1. It is submitted that the son of petitioner no. 1, who is the husband of O.P. No. 2, was diagnosed with cancer in the month of October, 2019, but O.P. No. 2 never visited him during the period of his illness and treatment, and, she never took care of him in any manner whatsoever. Due to the aforesaid indifferent, callous and torturous behaviour of O.P. No.2, her husband in his lifetime had changed the nomination of one of his life insurance policies (LIC) by replacing his wife's name i.e. the name of O.P. No.2 with that of his brother Hrishikesh Mishra (petitioner No.2). Said nomination was also made in view of the fact that all the cost for treatment and care of the husband of O.P. No. 2 was incurred by both petitioners and, therefore, as a matter of family understanding, petitioner no. 2 was nominated with LIC.



6. It is also pointed out by Mrs. Rashmi Jha that the aforesaid amount could not be realized in favour of the petitioner no. 2, as O.P. No. 2 filed an application dated 24.03.2023 under Section 23 of the Domestic Violence Act, whereupon learned court below restrained the petitioners from withdrawing any amount from the insurance company against the death claim of her husband of O.P. No. 2. In the meantime, the loan account became NPA resulting in the accumulation of debt manyfold, and finally, the house, which was purchased, was auctioned by the bank.

7. It is further submitted by Mrs. Jha that O.P. No. 2 was at no point in time, in a domestic relation with the petitioners, and no complaint was ever raised by her against the petitioners since her marriage with the late Brajesh Mishra in the year 2016. It is pointed out that the present case under the D.V. Act was preferred only *qua* the claim of LIC Policy No. 846938124, where petitioner no. 2 and O.P. No. 2 are nominees. It is submitted that the dispute is purely civil in nature, for which separate legal remedies are available under the law, for which the present prosecution under the D.V. Act



is completely a malicious approach out of ulterior and oblique motives.

8. In the aforesaid context, Mrs. Jha, relied upon the legal report of the Madurai Bench of Hon'ble Madras High Court as available through **B. Sakunthala Vs. Vasantha [Crl. O.P. (MD) No. 8503 of 2016 and Cri. M.P. (MD) Nos. 4117 and 4118 of 2016] dated 07.09.2016**, where in para 3.3, 3.4 and 5, the Hon'ble Court has held, which reads as under:

“**3.3.** The next contention is that when a dispute regarding property rights needs to be resolved by a Civil Court and if it is given the colour of Domestic Violence, then it is a case of abuse of process of the law and it needs to be quashed. In support of this contention, a decision reported in **(2015) 3 MLJ (Crl) 690 (R. Vinayagam and another vs. M. Prema and others)** is relied upon, in which it has been held as follows:

"14.....I have to hold that absolutely, there is no evidence that there was domestic violence caused by the respondents. Whether the husband of the petitioner has got any undivided share in the property in question or not is a matter to be resolved only by the competent Civil Court and a Criminal Court cannot venture to resolve the same....”

3.4. In this case also, whether the husband of the respondent had any undivided share in the property is the subject matter to be decided by the competent Civil Court and not the Criminal Court dealing with the complaint under Domestic Violence Act.

5. From the perusal of the contentions and documents, it is evident that if at all, the respondent claims the right over the property in the capacity as wife of the deceased husband, the remedy is only to file a Civil Suit for



declaration of her rights and there cannot be a complaint under Domestic Violence Act, when the petitioner herein has resorted to legal remedy. If the legal remedy sought for is branded as domestic violence, then it is a case of abuse of process of law. Therefore, the complaint is liable to be quashed and it is quashed accordingly.”

9. It is submitted by Mr. Shekhar Singh, learned senior counsel appearing for the opposite party no. 2, that ‘economic abuse’ is also a form of domestic violence, including deprivation of economic or financial resources to which the aggrieved person is legally entitled, including access to the shared household.

10. It is submitted that learned trial court *prima facie* observed that the complainant’s name as nominee had been altered by overwriting, without any date, which appears *prima facie* suspicious. Consequently, an interim protection order under Section 23(2) of the Act was passed through the impugned order dated 31.03.2023. It is submitted by Mr. Singh that the present petition is not maintainable under section 482 of the Cr.P.C. for the reason that there is a provision of appeal in the act itself under section 29 of the Act.

11. In support of his submission, Mr. Singh relied



upon the legal report of the Hon'ble Supreme Court as available through **Kamatchi Vs. Lakshi Narayanan [(2022) 15 SCC 50]**. The relevant paragraph is being reproduced hereunder for better understanding of the case:

“28. **It is thus clear that the High Court wrongly equated filing of an application under Section 12 of the Act to lodging of a complaint or initiation of prosecution ...**

30. Lastly, we deal with the submission based on the decision in **Adalat Prasad (Adalat Prasad v. Rooplal Jindal, (2004) 7 SCC 338: 2004 SCC (Cri) 1927)**. The ratio in that case applies when a Magistrate takes cognizance of an offence and issues process, in which event instead of going back to the Magistrate, the remedy lies in filing petition under Section 482 of the Code. **The scope of notice under Section 12 of the Act is to call for a response from the respondent in terms of the statute so that after considering the rival submissions, appropriate order can be issued.** Thus, the matter stands on a different footing and the dictum in Adalat Prasad [Adalat Prasad v. Rooplal Jindal, (2004) 7 SCC 338: 2004 SCC (Cri) 1927] would not get attracted at a stage when a notice is issued under Section 12 of the Act.”

12. It is also submitted that at present only notice was issued against the petitioners to join the proceeding so as to call for a response from the petitioners being respondents, which makes the present petition unoccasioned. In support of his submission, Mr. Singh relied upon the legal report of the Hon'ble Apex Court as available through **Adalat Prasad Vs. Rooplal Jindal [(2004) 7 SCC 338]**.



13. It is further submitted by Mr. Singh that the petitioners have not demonstrated how the appellate remedy is not efficacious, which compelled the petitioners to file the present petition. In support of his submission, Mr. Singh relied upon the decision of the Hon'ble Delhi High Court as available through **Sirisha Dinavahi Bansal Vs. Rajiv Bansal [2020 SCC OnLine Del 764]**, the relevant part of the aforesaid decision is being reproduced hereunder for a ready reference:

"31. From the conspectus of judgments, it is clear that inherent powers of the High Court are not conferred by the Criminal Procedure Code and are only saved by it and nothing can affect its amplitude, **yet Courts have imposed self limitations for exercise of the power when there are specific provisions of alternative remedies, and invasion in areas, so set apart, is in exceptional and only in compelling circumstances.**

32. This Court is not persuaded in the facts and circumstances of the present case, to entertain the petition in its extraordinary power under Section 482 Cr.PC, given the fact that there is a clear remedy of Appeal under Section 29 of the Act. Different High Courts have subscribed to a common view on this aspect, as is evident from the judgments referred to above. No doubt the facts and circumstances of a given case could be egregious and compelling. demanding immediate judicial intervention by this Court and invasion into domains exercisable by subordinate Courts under Special Statutes, but the present case does not call for exercise of the said mandate. No observation is made by this Court on the merits with respect to which party is entitled to custody lest it prejudices either side. Suffice would it be to note that facts and circumstances do not call for any urgent



intervention to permit the Petitioner to bypass the remedy of Statutory Appeal. **Petitioner has been unable to make out a case how and why the remedy of Appeal is not efficacious."**

14. During the concluding argument, it is submitted by Mr. Singh that an application under Section 12 of the D.V. Act is maintainable even if the domestic relationship is not subsisting at the time of filing, provided the aggrieved person was subjected to domestic violence during or on account of a past domestic relationship. In support of his submission, Mr. Singh relied upon a legal report of the Hon'ble Supreme Court as available through **Prabha Tyagi Vs. Kamlesh Devi [(2022) 8 SCC 90]**, the relevant portion is being reproduced hereunder, which reads as such:

"**75.3.** "(iii) Whether there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed?"

It is held that there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed vis-à-vis allegation of domestic violence. However, it is not necessary that at the time of filing of an application by an aggrieved person, the domestic relationship should be subsisting. **In other words, even if an aggrieved person is not in a domestic relationship with the respondent in a shared household at the time of filing of an application under Section 12 of the DV Act but has at any point of time lived so or had the right to live and has been subjected to domestic violence or is later subjected to domestic violence on account of the domestic relationship, is entitled to file an application under**



Section 12 of the DV Act."

15. It is pointed out by learned senior counsel that the Hon'ble Supreme Court failed to consider the ratio of **Kamatchi case (supra)** in **Shaurabh Kumar Tripathi Vs. Vidhi Rawal [2025 SCC OnLine SC 1158]** which is a misplaced position of law being judgment "*per incurriam*" and, therefore, the aforesaid judgment does not appear to help the petitioners.

16. Taking counter submission, Mrs. Rashmi Jha, learned counsel for the petitioners, submitted that having provisions of appeal under law is something different and the maintainability of the petition under the Act itself is a different issue. Having a wrong petition that is unoccasioned out of ulterior and oblique motive with a malicious approach, petitioners cannot be forced to join the proceeding, and, in such a case, the only recourse available to the petitioners is quashing of the proceeding under section 482 of the Cr.P.C. It is submitted that when the sole issue in the present matter pertains to the release of the insurance amount either in favour of petitioner no. 2 or in favour of opposite party no. 2,



the initiation of proceedings under the D.V. Act appears to be a gross misuse of the legal process and amounts to a mockery of the law itself.

17. Arguing emphatically on this point, it aggressively on this point, it is submitted that while several criminal statutes provide for appellate remedies, the mere existence of such provisions cannot justify the institution of an unwarranted and baseless criminal proceeding, compelling the aggrieved party to pursue appellate remedies solely on the pretext of availability under the statute.

18. It is pointed out that **Shaurabh Kumar Tripathi (supra)** is the latest judgment of the Hon'ble Supreme Court, and moreover, even the legal ratio as available through **State of Haryana v. Bhajan Lal and Others.** reported in **[1999 Supp (1) SCC 335]** is in favour of the petitioners, and, therefore, the entire proceeding filed under D.V. Act, 2005, only for the core issue, is to decide the rightful claimant qua the LIC policy, be quashed and set aside with the impugned order of stay.

19. It would be apposite to reproduce the relevant part of the **Domestic Violence Act, 2005** for better



understanding of the case, which reads as under:

"3. Definition of domestic violence.—For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—For the purposes of this section,—

(i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes—

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;

(iv) "economic abuse" includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the



shared household.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.”

20. It would be apposite to reproduce **paragraph**

Nos. 32 to 35 of Shaurabh Kumar Tripathi case (supra)

where it has been decided by the Hon’ble Supreme Court that quashing petition under section 482 of the Cr.PC. is maintainable; which reads as under:

“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*⁴. 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.”

21. It would also be apposite to reproduce the legal guidelines as available through **Bhajan Lal case (supra)**, which reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR



or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

22. To understand the complaint of opposite party no. 2, it would be apposite to reproduce paragraph ‘3’ covering details events and incidents, which reads as under:

“3. Details of events and incidents:

a. That the marriage of the complainant/aggrieved person was solemnized with late Brajesh Mishra according to Hindu Rites and Customs on 24/11/2016.

b. The marriage of the complainant and respondent no.1 was an arranged marriage through relatives of both sides. At the time of the marriage, it was projected from the side of the respondents that the respondent no.1 is a brilliant person & is a family man. The respondents also projected that they have ancestral properties in Ballia Uttar Pradesh, which amounts to crores rupees. That the house hold i.e. Flat of no. 303Complex, Danapur, Patna, Bihar, is purchased by complainant’s husband



in his name Therefore, the complainant has right to reside in the said house.

c. That the respondent No. 1 is brother-in-law (Jeth) of the Complainant. The respondent No.2 is mother-in-law of the Complainant, respondent no.3 is the sister-in-law (Jethani) of the Complainant. Respondent no. 1, 2 & 3 used to stay at Flat No. 303, Lotus Mansion, Gola Road, Ramjaipal Nagar, Near Corporation Bank, Opposite Maddhurani Complex, Danapur, Patna and was very much a part of the daily domestic violence which Occurred in the years when she was at Patna and which is used to play an important role in the domestic violence.

d. That in the marriage, father of the complainant organized a grand reception as per the demand of my in-laws. Despite father of the complainant coming from low-income class, gifted all the traditional gifts to respondents and their relatives including jewellery, furniture, electronic goods and other Stridhan but the respondents who were greedy from the very inception were not satisfied with the dowry articles given by the parents of the complainant /aggrieved person.

e. That from the beginning of marriage, complainant has been ill-treated by the the respondents. Complainant spent three years of hex matrimonial life in a joint family" with her husband and in-laws. Since her complainant) mother-in-law and Jethani used to deal with the complainant as maid in a joint family and taunted her every day. Then complainant's husband had shifted with complainant in a rented house and thereafter he purchase the flat at Danapur on easy monthly installment by Bank Loan where he was employed. Since this action is not acceptable to family members (respondents), so they started pressurizing complainant's husband to bring back the complainant in the joint family and they succeed. Then complainant's husband fell ill and was ailing with carcinoma and in year 2022 he passed away to rest in peace. After the death of complainant's husband complainant was forced to move to her parent's home and when she moved to her parent's home then respondents shifted to Danapur flat and took all original documents of complainant documents, and bank husband's her documents and insurance property documents as well as the original paper related to the flat at Danapur, Patna and advance towards complainant with intimidation to kill her, in the circumstances complaint in fear left the flat and gone out on the street to save herself. Respondent no. 1 and 3 then followed her on the street to catch her. Because of this ruckus neighbors gathered there and protected, the complainant from assault. The neighbors then asked to call the complainant's maternal family members. The complainant then called her maternal family members. When they reached there and took complainant with them. It was also



reported to local police at Danapur, Danapur, later later complainant came to know that the police are in collusion of the respondents. Due to this the complainant has been forced to live temporally at her maternal home, with her maternal family members.

f. That the complainant was never treated as a family member from the very beginning and everything was controlled by the Respondent No 2 at the instructions given by the Respondent No.1s 3, who used to always interfere when she was in joint family and even when she lives separately from the complainant, The complainant had no right at all to say anything in the house and was literally being used like a doormat in the house where anybody could come and dust his/her feet by giving instructions for domestic work.

g. In the matrimonial life of complainant so far, respondent no. 1 abused her at the behest of his mother and sister-in-law and his wrong thinking and dirty behavior made it worse. The life style and friend circle of respondent no. 1 is bad, Because of it he always been ill advised and frustrated, his all the frustrations then end up in abusing and beating the complainant.

h. Here again complainant want to repeat that respondent no. 1 is a very aggressive and ill-tempered person. In every pretty issue he throws things of the house on floor and break them. He does all this to keep pressure on the complainant to control her all the time. he has not given any freedom to complainant do anything inside the house, complainant every time compromise with respondent according to their wishes. Due to the values taught by her parents, complainant kept trying every effort to deal with this unfortunate situation and to remain silent SO that her parents do not get hurt by seeing her sad. For this reason, complainant despite of these torture inflicted by respondents she adopted this situation, and she molded herself according to their method, which was very different from her parent's way of living. In this situation, on many occasions' complainant used to cry a lot after retiring to bed because respondents did not understand her physical and mental pain.

i. It is pertinent to submits that complainant always tried to please respondents and made every effort to make her life little bit comfortable. For this, she did all the work she can as wanted by respondents but the respondents never appreciated her efforts. Complainant submits that respondents even used to taunt her that her father would never give him enough gift during marriage and festivals and on other occasion, while her parents gave expensive gifts to respondents on every festival and occasion." Maternal family members of the the complainant tried to keep them happy in every way but they were never satisfied.



j. The complainant is constantly living in the fear of life as the respondents are physically strong and have bad temper, have aggressive loud and completely unpredictable their reaction to the situation. The respondent no. 1 would openly threaten the complainant that if she does not arrange money from her brother, he would physically harm her in such a manner that she would repent her whole life. The complainant did not want to trouble her mother and brothers. The complainant could not share her grief with anyone and continue to give in to the respondents.

k. That the Respondents used to threatened the Complainant that they would ruin the life of the Complainant's family.

l. The complainant has selflessly given in this relationship, physically, emotionally, mentally monetarily and demanded nothing but self-respect support.

m. The complainant today is left with no self-respect, no self-esteem, no confidence, no money and everything is taken away from her. The complainant is mentally and emotionally shattered today. For the past one year, since death of her husband, she has been forced to live at her maternal home in miserable condition. The provision of the basic needs like food clothing, education being provided from the money being given by the complainant's mother and brothers.

n. The complainant has been advised to state that he has pleaded herein recent acts of cruelty and mental torture perpetrated by the respondents because these are sufficient petitioner to the relief to entitle the claimed by her. Therefore, petitioner seeks leave of this Hon'ble court to reserve her right to plead various other acts of cruelty perpetrated by the respondent before these acts and at any other time. The petitioner must not be construed to have waived, abandoned, and or condone the same in any manner. The petitioner is making this submission so as to shorten the proceedings and litigation. This is also in the interest of justice and save the marriage.

o. That the respondents have treated the aggrieved person/complainant with cruelty, mental torture, harassment, humiliation and agony hence the aggrieved person/ complainant is having no other option except to approach this Hon'ble Court for her grievances which are growing bad to worse from time to time and has reached a level of intolerance during these months.

p. That complainant has not filed any other civil or criminal case against the respondents nor is any other matter pending for adjudication in any courts within the territory of India."

23. The aforesaid complaint was filed with a prayer



of (1) compensation or damages as per section 22 of the Protection of Women From Domestic Violence Act, 2005, to pay Rs. 50,00,000/-; (2) residential right in the shared household as the complainant has been residing in the shared household, with the respondent in the domestic relationship for more than 7 years under section 17 of the Act; (3) prohibiting acts of domestic violence by granting an injunction against the respondents from repeating any of the acts under section 18 of the D.V. Act; (4) prayer to prohibit the respondents from entering into the complainant's house, which is her shtridhan (Flat No. 303, Lotus Mansion, Gola Road, Ramjaipal Nagaar, Near Corporation Bank, Opposite Madhurani Complex, Danapur, Patna - 801503); (5) monetary relief of Rs. 5000/- per month under section 20 of the Act; (6) compensation of Rs. 20,00,000/- as damage for causing mental and physical cruelty under section 22 of the Act.

24. It is an admitted position that the marriage of opposite party no. 2 took place with the son of the given deceased petitioner no. 1 and brother of petitioner no. 2 as



per Hindu rites and rituals on 24.11.2016. It is also an admitted position that the husband of O.P. No. 2 was diagnosed with cancer in the year 2019 and died in the year 2022. it further transpires that prior to the solemnization of marriage between opposite party no. 02 and the son of the petitioner no.01, Flat No. 303, Third Floor, under Lotus Mansion, Gola Road, Danapur, Patna, was purchased by O.P. No. 2, as evident from Annexure P/3. For the purchase of this flat, the deceased husband of O.P. No. 2 took out a bank loan. He was serving with Canara Bank as Divisional Manager, Kolkata, but died due to cancer, and the bank loan became a non-performing account (NPA), whereafter the aforesaid house was auctioned by the bank.

25. From perusal of the entire complaint petition as discussed aforesaid, nothing appears specific against the petitioners. Not even a single date of alleged occurrence appears specified. This complaint petition was filed after filing the aforesaid writ petition, as discussed the aforesaid by the petitioners, for claiming the NPS account of his deceased son/brother, where one of the learned coordinate Bench of



this court decided the issues between the parties through **C.W.J.C. No. 2846/2022** dated 03.09.2024. The relevant **paragraphs Nos. 18 to 23** are being reproduced hereunder for ready reference:

“18. Now coming to the legality of the impugned order, as contained in Annexure-4, to the extent whereby while negating the claim of petitioner no.1, it is said that she being nominated by the deceased employee before his marriage, her claim for all the benefits shall be considered void in terms of the notification published in the Gazette of India on 11.05.2015; wherein it is mentioned in the Point No.31, Sub Clause (v) that a fresh nomination shall be made by the subscriber on his marriage and any nomination made before such marriage shall be deemed to be invalid; in the opinion of this Court is wholly misconceived and fit to be rejected.

19. The aforementioned Sub-Clause (v) of Point No.31 of PRDA Act talks about the contingency that on or after marriage if an employee makes any nomination, the earlier nomination made by the subscriber before such marriage shall be deemed to be invalid, but the same does not talk about automatic invalidation on account of the marriage of the subscriber.

20. It is admitted position that the deceased subscriber did not file fresh nomination after his marriage. It is also the fact that the status of the respondent no.4 as a widow of the deceased employee has never been questioned either before the Bank authorities or before this Court, rather the petitioner no.I had herself submitted an application with the Bank for settlement of death claim of her son jointly with deceased's wife (respondent no.4). It is also admitted in fact as well as law that petitioner no.1 being mother and the respondent no.4 being the widow of the deceased employee are Class-1 legal heirs under the Hindu Succession Act, 1956.



21. The issue with regard to the effect of nomination has been clarified by various judgments rendered by the Apex Court as well as this Court in the cases noted hereinabove that the nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession. Once on account of the petitioner no.1 being the mother and the respondent no.4 being the widow of the deceased employee, a right has been vested in their favour, the same cannot be divested because of any family feud.

22. In view of the settled legal position that nomination alone does not confer any exclusive beneficial interest on the nominee, the amount so received are to be distributed according to Hindu Succession Act, 1956. The respondent Canara Bank is directed to release half of the amount of NPS or any other terminal benefits each to the petitioner no.1 as well as respondent no.4 by dividing the same equally between two of them preferably within a period of four weeks from the date of receipt/production of a copy of this order.

23. This Court has also been apprised that the deceased employee has purchased a flat by taking home loan and there is a loan under the over draft facility, as discussed earlier and the aforesaid liability would be settled from the assets of the legal heirs of the deceased employee in accordance with law. If on disbursement of the amount under the NPS Scheme, if petitioner no.1 and respondent no.4 are consented to repay the loan, the said amount shall be appropriated against home loan or in case there is no consensus between the petitioner no.1 and respondent no.4, the Bank shall be at liberty to proceed in accordance with the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002).

26. Now, petitioner no. 2 and O.P. No. 2 are fighting in a similar manner as aforesaid for their nomination in the



Life Insurance Claim after the death of the husband of O.P. No. 2, and to pressurize for all such, the present domestic violence case was filed on 01.03.2023.

27. This Court is also of the view that, like the NPS amount as aforesaid, the realization of the insurance amount due to two different claimants cannot be said to be an 'economic abuse' in view of section 3(d)(iv) of the Protection of Women from Domestic Violence Act, 2005, because the dispute in issue may be decided by way of civil litigation for which the present prosecution is completely unwarranted, unoccasioned, and was initiated out of ulterior and oblique motive. The present case exemplifies the gross misuse of the provisions of the Protection of Women from DV Act, wherein the law is being invoked as a tool to harass the in-laws and to settle collateral disputes, despite the availability of other efficacious legal remedies. It is pertinent to note that petitioner no. 01 is a senior citizen and the mother of the deceased husband of the opposite party no. 02. By lodging this petition, in fact, the petitioner no. 1 was traumatized by initiating this prosecution, which was brought by the



legislative for welfare purposes. This case appears to be filed *prima facie* without any domestic relationship, as it transpires from the complaint of the complainant itself, and it is a fight for only property and money. It is the duty of this Court to take such abuse and misuse of protective welfare legislation, which was used by O.P. No. 2 against petitioners as a legal weapon. Such misuse of legal provisions, amounting to legal harassment, cannot be permitted to perpetuate under the guise of lawful process. Hence, by taking a guiding note of **Bhajan Lal case (supra)** and **Shaurabh Kumar Tripathi case (supra)**, the entire proceeding arising through order dated 31.03.2023 passed in Complaint Case No. 516 of 2023 (Enquiry Case No. 627/2023) u/s Section 12 of the Domestic Violence Act 2005, with all its consequential proceeding is hereby quashed/set aside.

28. This application stands allowed.

29. It is made clear that any observation made by this Court shall be of no bearing for the decision of claim of petitioner no. 2 and opposite party no. 2 *qua* claim of LIC Policy no. 846938124 and same which shall be decided by



the concerned authority in accordance with law.

30. Let a copy of this judgment be sent to the learned
trial court, henceforth.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	25.06.2025
Uploading Date	09.07.2025
Transmission Date	09.07.2025

