

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14545 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

-
1. Hemant Gagan Singh, son of Devitri Prasad Narayan Singh.
 2. Devitri Prasad Narayan Singh @ D.P.N. Singh @ Gagan Gee, son of late Harekrishna Prasad Narayan Singh.
 3. Smt. Kusum Singh, wife of Devitri Prasad Narayan Singh.
All resident of House No.228, Bharat Marg, Hanuman Nagar, At P.O. and District- Jaipur, Pin Code- 302021 (Rajasthan).

... .. Petitioners

Versus

1. State of Bihar.
2. Anima Matri Singh, wife of Hemant Gagan Singh, daughter of Ashutosh Prasad Narayan Singh, resident of Maitri Kutir, Tilak Nagar, P.O. and P.S. Kankarbagh, District- Patna

... .. Opposite Parties

with
CRIMINAL MISCELLANEOUS No. 51161 of 2022

Arising Out of PS. Case No.-2 Year-2011 Thana- DOMESTIC VIOLENACE District- Patna

-
1. Shishir Gagan Singh, Son of late D.P.N. Singh.
 2. Deepali Singh, wife of Shishir Gagan Singh.
Both resident of L/28 D.L.F. Phase-II , Gurugram (Haryana)

... .. Petitioners

Versus

Anima Matri Singh, wife of Hemant Gagan Singh, daughter of Ashutosh Prasad Narayan Singh Resident of Maitri Kutir, Tilak Nagar, P.O and P.S- Kankarbhag, Dist- Patna

... .. Opposite Parties

Appearance :

(In CRIMINAL MISCELLANEOUS No. 14545 of 2015)

For the Petitioner	:	Ms. Nutan Mishra, Advocate
For the State	:	Mr. Manoj Kr. 1, APP
For the Opp. Party No.2:	:	Mr. Manish Kumar No.2, Advocate Mr. Gajendra Kumar Singh, Advocate

(In CRIMINAL MISCELLANEOUS No. 51161 of 2022)

For the Petitioner	:	Mr. Ajit Kumar Ojha, Advocate
For the State	:	Mr. Manish Kumar No.2, APP
For the opp. party No.2:	:	Mr. Manish Kumar No.2, Advocate M. Gajendra Kumar Singh, Advocate



CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
COMMON ORAL JUDGMENT

Date : 15-07-2025

Heard learned counsels for the petitioners of both the cases, learned APP for the State and learned counsel for the opposite party no.2.

2. Both these Criminal Miscellaneous Applications arise out of Domestic Violence Case No.02 of 2011 filed by the opposite party no.2. In both these cases, the petitioners have assailed the entire proceedings arising out of Domestic Violence Case No.02 of 2011 pending in the Court of learned Judicial Magistrate, 1st Class, Patna.

3. During the pendency of Criminal Miscellaneous No.14545 of 2015, the petitioner no.1 namely, Hemant Gagan Singh, who was the husband of opposite party no.2 and petitioner no.2 namely, Devitri Prasad Narayan Singh, who was father-in-law have died. Therefore, this case stood withdrawn vide order dated 13.02.2023 as against the aforesaid two petitioners. Now, Criminal Miscellaneous No.14545 of 2015 is only confined to petitioner no.3, Kusum Singh, who is the mother-in-law of the opposite party no.2.

4. The petitioners of Criminal Miscellaneous No.51161 of 2022 are the brother-in-law and sister-in-law of the



opposite party no.2.

5. These cases arise from the Domestic Violence Case No.02 of 2011 preferred by opposite party no.2- Anima Matri Singh against her husband and his family members *inter alia* alleging that her marriage was solemnized with the petitioner no.1-Hemant Gagan Singh (since deceased) on 29.06.2001 at Jaipur (Rajasthan) according to Hindu rites and rituals. In the marriage, the father of the opposite party no.2 has given Rs.3,00,000/- cash as well as gold and silver jewellery. It is further alleged that after the marriage the in-laws of the opposite party no.2 started torturing her for demand of dowry. It is stated that the opposite party no.2 stayed in her matrimonial home for eight months and during that period she came to know that her husband (deceased) was suffering from epilepsy and she was the caregiver of her husband during the aforesaid eight months period, however, it is alleged that the family members of her husband used to taunt her.

5.1. It is next alleged by the opposite party no.2 that during the aforesaid period of eight months she had conceived but due to misbehaviour of her in-laws, on 05.08.2002 she left her matrimonial home and came to her parents house in Patna where she gave birth to her son on



06.01.2003. Thereafter, the father of the opposite party no.2 tried to restore the matrimonial life of the parties by requesting the in-laws of the opposite party no.2 to take back the opposite party no.2 to her matrimonial house but all efforts of restoration of the matrimonial relationship failed.

5.2. It is next alleged that the husband (deceased) had filed a suit for divorce on the ground of cruelty and desertion at Family Court, Jaipur, which was later transferred to Family Court, Patna on 02.09.2007 by the order of the Hon'ble Supreme Court and the same was re-numbered as Divorce Case no.657 of 2008.

5.3. It is lastly stated by the opposite party no.2 that she had preferred a maintenance case bearing Maintenance Case Case No.19M of 2008 under section 24 of the Hindu Marriage Act, 1955. Both the cases i.e. divorce case and maintenance case are pending in the Court of learned Additional Principal Judge, Family Court, Patna. Therefore, the opposite party no.2 had prayed to either to allow her to reside in her matrimonial house or provide her rent in lieu thereof. Further, pass an order granting compensation of Rs.20,00,000/- under section 22 and monetary relief of Rs.20,00,000/- under section 20 of the Protection of Women from Domestic Violence Act,



2005.

6. The learned counsels appearing for the petitioners submits that the proceedings initiated under the Protection of Women From Domestic Violence Act, 2005 is merely a misuse of law in order to pressurize the petitioners to succumb to the unreasonable demands of the opposite party no.2. It is submitted by learned counsels for the petitioners that the opposite party no.2 had left her matrimonial house in August, 2002 and thereafter multiple attempts were made by the petitioners to restore the matrimonial life of the parties but all attempts went in vain and ultimately, the husband (deceased) of the opposite party no.2 was constrained to file a matrimonial case for divorce in the year 2007 at Jaipur. It is emphasized by learned counsels for the petitioners that the present proceeding under the Domestic Violence Act has been initiated by the opposite party no.2 in in the year 2011 i.e. almost after nine years of her desertion when the husband (deceased) had preferred the aforesaid divorce case, which itself is indicative of the fact that the present proceeding under the Domestic Violence Act has been set in motion only to pressurize and harass the petitioners. It is further emphasized by the learned counsels for the petitioners that the opposite party no.2 has been staying



separately from her husband since the year 2007.

7. It is next submitted by the learned counsels for the petitioners that the proceedings under the Domestic Violence Act was initiated without consideration of any report of the Protection Officer as the aforesaid report of the Protection Officer under the Domestic Violence Act was submitted only on 01.01.2012 but the case was admitted on 11.01.2011 itself.

8. It has been submitted by learned counsel for the petitioners that the husband of the opposite party no.2 along with his mother and father has also filed a Miscellaneous Case No. 16 of 2013 under section 7 of the Guardians and Wards Act, 1890 praying for the custody of his son.

9. By way of filing a supplementary affidavit, the petitioners have brought on record the fact that the deceased husband of the opposite party no.2 had invested a substantial amount which had come to him after selling certain properties and this fact was in the knowledge of the opposite party no.2. Furthermore, the deceased husband of the opposite party no.2 had taken a life insurance policy wherein the opposite party no.2 is the nominee.

10. It has been argued by learned counsel for the petitioners that the mother-in-law of the opposite party no.2 is



on her last breath and the husband and father-in-law of the opposite party no.2 have already died. He has pointed out that though the properties of the petitioners have already been portioned much prior to the marriage but in order to support the son of his deceased brother, the petitioners have already paid an amount of Rs.10,00,000/- through a demand draft and also supplied the policy documents to the opposite party no.2 in course of hearing of quashing petition preferred by the brother-in-law and sister-in-law of the opposite no.2 and this fact has already been recorded by this Court vide order dated 03.09.2024 passed in Criminal Miscellaneous No.75704 of 2023 (*Shishir Gagan Singh @ Shirshir Gagan Singh & Anr. vs. State of Bihar & Anr.*), by which the order taking cognizance against them was quashed. In the said order, it has also been recorded that the property of the deceased husband and the brother-in-law of opposite party no.2 being portioned long back.

11. In reply to the aforesaid supplementary affidavit, the opposite party no.2 has filed her reply stating therein that the petitioners belong to an affluent family and her father-in-law retired from the post of D.G.P., C.R.P.F. and her in-laws were settled at Jaipur (Rajasthan). It has also been stated that the in-laws of opposite party no.2 belong to “*Hardi Estate*”



and her husband is one of the heirs of that family, who was suffering from several disease like epilepsy and asthma. Initially, the relation between the opposite party no. 2 and her husband was very cordial and from their wedlock a child was born in the year 2003 but subsequently her in-laws ill treated her and ultimately, she has been ousted from the house and thereafter she started residing at her parental house at Patna. In the reply to the supplementary affidavit the opposite party no.2 has further stated that the aforesaid property purchased by the petitioners is simply not possible from the income of the petitioner nos. 1 and 2 as the petitioner no. 1 was working as a Legal Advisor at Steel Authority of India Ltd., Delhi and therefore, the entire property has been purchased by the petitioner nos. 1 and 2 from the money received by selling the property at Patna and Jaipur.

12. It has also been stated in the reply to the supplementary affidavit that there are huge properties of the petitioners at Patna i.e. “*Hardi Kothi*” situated at Bank road and Fraser road, Patna as also in Jaipur. It is alleged that the petitioners have sold their entire properties at Patna and Jaipur and through the proceeds they have purchased the residential property at D.L.F. Gurgaon without giving any share to the



opposite party no. 2 or her son.

13. It has also been stated that the son of the opposite party no.2 is also the heir of petitioner no.3, Kusum Devi, who is moving pillar to post for his survival due to lack of money. The son of the opposite party no.2 has not even completed his education since his mother has no income. It is also stated in the reply that right from the beginning the grievance of the opposite party no.2 was to provide her with a residential house at Patna including some money for maintaining her livelihood and education of her child but, the petitioners regularly deserted her and tortured in various manners and had not permitted to enter into the house at Gurugram.

14. It is lastly submitted by the opposite party no.2 that the petitioners are enjoying the fruits of the proceeds of selling even the share of her deceased husband without giving the rightful share to the opposite party no.2 or her son who is the rightful heir of the petitioners.

15. An interlocutory application has been filed by the petitioners to bring on record certain additional facts on record. In the aforesaid interlocutory application the petitioners have submitted that the petitioners are the elder brother, sister-



in-law, mother and father of the deceased husband of the opposite party no.2. It has been reiterated that the husband and the father-in-law had passed away during the pendency of the present case. It is thereafter been stated that during the pendency of the present case the opposite party no. 2 had also preferred to file a case under section 498-A of the I.P.C. and the petitioners had thereafter had also preferred an application under section 482 of the Cr.P.C. praying for the quashing of the aforesaid case. This Court while considering the aforesaid application on behalf of the brother-in-law and the sister-in law in Cr. Misc. 75704 of 2023 *vide* order dated 03.09.2024 had quashed the order taking cognizance. It has been stressed by the petitioners that the properties were partitioned which was also duly noted in the aforesaid order dated 03.09.2024.

16. A counter affidavit has been filed by the opposite party no.2 in the matter wherein she has reiterated the earlier stand taken in the reply to the supplementary affidavit. Apart from reiteration of the earlier facts, it has further been stated that the documents and the L.I.C. certificate supplied to the opposite party no.2, which was noted by this Court while quashing the cognizance order in complaint case no.6826 of 2022 against the brother-in-law and his wife is of no use. Lastly,



the opposite party no.2 has prayed for providing a small residence in order to maintain herself and her son.

17. Considered the submissions of the parties and perused the materials available on record.

18. From the records, it appears that the opposite party no.2 had filed Domestic Violence Case No.02 of 2011 under the DV Act, 2005 claiming the reliefs of residence, monetary and compensatory reliefs. The complainant-opposite party no.2 had arrayed her husband, father-in-law, mother-in-law, brother-in-law and sister-in-law under the aforesaid complaint preferred under section 12 of the DV Act, 2005. During the pendency of this case, the husband and father-in-law of the opposite party no.2 have passed away.

19. While considering a petition under section 482 of the Cr.P.C. filed by the petitioners, who are brother-in-law and sister-in-law of opposite party no.2, this Court had noted the fact that the parties including her deceased husband had partitioned long back and were dealing with their own share in the property and the petitioners have already supplied all the documents and also a demand draft of Rs.10,00,000/- prepared in favour of the son of the opposite party no.2. After recording the aforesaid facts and also the other contentions, this Court



vide order dated 03.09.2024 passed in Criminal Miscellaneous No.75704 of 2023 had quashed the order taking cognizance against the petitioners.

20. It is relevant to reproduce the order passed by this Court in aforesaid Criminal Miscellaneous No.75704 of 2023, which reads as under -

“2. The present application has been filed for quashing of the order dated 16.12.2022 by which learned Judicial Magistrate- 1st Class, Patna Sadar, Patna has taken cognizance against the petitioners in Complaint Case No. 6826 (C) of 2022, registered for the offence u/ss 323, 406, 448, 498A of the Indian Penal Code and also for quashing the order dated 03.06.2023, passed learned Sessions Judge, Patna in Criminal Revision No. 226 of 2023.

3. As per prosecution case, the accused persons are alleged to have tortured and assaulted the complainant due to non-fulfillment of demand of dowry and ousted her from the matrimonial home. The complainant's husband died in year 2016. When the complainant went there the accused persons tried to snatch her son. She further alleges that the accused persons did not return any belongings to her. It is further alleged that opposite party no.2 has filed a plethora of cases against her husband, brother-in-law, sister-in-law and mother-in-law in the year 2011. The aforesaid cases were challenged before this Court vide Cr. Misc. No.14545 of 2015 and upon hearing



the parties, this Court was pleased to stay the further proceeding in the court below and was further pleased to refer the matter to the Mediation Cell of the Hon'ble Patna High Court vide order dated 13.02.2023.

4. The opposite party no. 2 has appeared in person.

5. Learned counsel for the opposite party no. 2 has submitted that whatever documents with regard to the insurance etc. relating to the deceased husband of the opposite party no. 2 were available with the petitioner may be supplied to her.

6. Learned counsel for the petitioners has supplied all the documents and apart from this he has also brought a Demand Draft of Rs. 10 Lakhs in the name of son of opposite party no.2. The Demand Draft has been handed over to the learned counsel for the opposite party no. 2.

7. The petitioner no. 1 is the Brother-in-law i.e. brother of the deceased husband of the opposite party no. 2 and also considering the fact that the parties had partitioned long back and were dealing with their share in the property.

8. In the facts of the case, I am of the opinion that no offence is made out against the petitioners no. 1 and 2 who are husband and wife.

9. In my opinion, the prosecution of the petitioners should not be allowed to continue and it appears to be mala fide prosecution.

10. In view thereof, this application is allowed.

11. The order dated 16.12.2022 passed in



complaint case no.6826(C) of 2022 as well as the order dated 03.06.2023 passed in Criminal Revision No.226 of 2023 is hereby quashed.”

21. For deciding this case, it would be apposite to refer to the section 2(f), 2(q) and 2 (s) of the DV Act, 2005, which reads as under -

“2(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.”

“2(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;”

“2(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a house hold whether owned or tenanted either jointly by the aggrieved person and the respondent, or



owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household”

22. The Hon’ble Supreme Court in the case of ***Satish Chandra Ahuja vs. Sneha Ahuja*** reported as ***AIR 2020 SC 5397 = (2021) 1 SCC 414*** had explained the law of ‘shared household’ within the meaning of DV Act of 2005 and held as under :-

“57. After noticing the ratio of the above judgments, Section 2(s), which uses both the expressions “means and includes” and looking to the context, we are of the view that the definition of “shared household” in Section 2(s) is an exhaustive definition. The first part of definition begins with the expression “means” which is undoubtedly an exhaustive definition and second part of definition, which begins with word “includes” is explanatory of what was meant by the definition. Shri Nidhesh Gupta, learned Senior Counsel for the appellant submits that even if it is accepted that the definition of Section 2(s) is exhaustive, his case is fully covered in both



the parts of the definition.

58. *The use of both the expressions “means and includes” in Section 2(s) of the 2005 Act, thus, clearly indicate the legislative intent that the definition is exhaustive and shall cover only those which fall within the purview of definition and no other.*

59. *Now, reverting back to the definition of Section 2(s), the definition can be divided in two parts, first, which follows the word “means” and second which follows the word “includes”. The second part which follows “includes” can be further sub-divided in two parts. The first part reads “shared household means a household where the person aggrieved has lived or at any stage has lived in a domestic relationship either singly or along with the respondent”. Thus, first condition to be fulfilled for a shared household is that person aggrieved lives or at any stage has lived in a domestic relationship. The second part sub-divided in two parts is—*
(a) includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent and owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity, and (b) includes such a household which may belong to the joint family of which the respondent is a member,



irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household. In the above definition, two expressions, namely, “aggrieved person” and “respondent” have occurred. From the above definition, the following is clear : (i) it is not requirement of law that aggrieved person may either own the premises jointly or singly or by tenancing it jointly or singly; (ii) the household may belong to a joint family of which the respondent is a member irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household; and (iii) the shared household may either be owned or tenanted by the respondent singly or jointly.

.....

- 66.** *The observations of this Court in S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56 in paras 24, 25 and 26 were made while considering the expression “person aggrieved lives or at any stage has lived”. This Court observed in para 26 that if the interpretation canvassed by the learned counsel for the respondent is accepted that the house of the husband's relative where the respondent resided shall become shared household, shall lead to chaos and would be absurd. The expression “at any stage has lived” occurs in Section 2(s) after the words “where the*



person aggrieved lives". The use of the expression "at any stage has lived" immediately after words "person aggrieved lives" has been used for object different to what has been apprehended by this Court in para 26. The expression "at any stage has lived" has been used to protect the women from denying the benefit of right to live in a shared household on the ground that on the date when application is filed, she was excluded from possession of the house or temporarily absent. The use of the expression "at any stage has lived" is for the above purpose and not with the object that wherever the aggrieved person has lived with the relatives of husband, all such houses shall become shared household, which is not the legislative intent. The shared household is contemplated to be the household, which is a dwelling place of aggrieved person in present time.

67. When we look into the different kinds of orders or reliefs, which can be granted on an application filed by aggrieved person, all orders contemplate providing protection to the women in reference to the premises in which aggrieved person is or was in possession. Our above conclusion is further fortified by statutory scheme as delineated by Section 19 of the 2005 Act. In event, the definition of "shared household" as



occurring in Section 2(s) is read to mean that all houses where the aggrieved person has lived in a domestic relationship along with the relatives of the husband shall become shared household, there will be number of shared household, which was never contemplated by the legislative scheme. The entire scheme of the Act is to provide immediate relief to the aggrieved person with respect to the shared household where the aggrieved person lives or has lived. As observed above, the use of the expression "at any stage has lived" was only with intent of not denying the protection to aggrieved person merely on the ground that aggrieved person is not living as on the date of the application or as on the date when the Magistrate concerned passes an order under Section 19. The apprehension expressed by this Court in para 26 in S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56, thus, was not true apprehension and it is correct that in event such interpretation is accepted, it will lead to chaos and that was never the legislative intent. We, thus, are of the considered opinion that shared household referred to in Section 2(s) is the shared household of aggrieved person where she was living at the time when application was filed or in the recent past had been excluded from the use or she is temporarily absent.



68. *The words “lives or at any stage has lived in a domestic relationship” have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not. As noted above, the 2005 Act was enacted to give a higher right in favour of women. The 2005 Act has been enacted to provide for more effective protection of the rights of the women who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Sections 17 and 19 of the 2005 Act grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.*

69. *In para 29 of the judgment, this Court in S.R. Batra v. Taruna Batra (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56 held that wife is only entitled to claim a right to residence in a shared household and a shared household would only mean the house belonging to or taken on rent by the*



husband, or the house which belongs to the joint family of which the husband is a member. The definition of “shared household” as noticed in Section 2(s) does not indicate that a shared household shall be one which belongs to or taken on rent by the husband. We have noticed the definition of “respondent” under the Act. The respondent in a proceeding under the Domestic Violence Act can be any relative of the husband. In event, the shared household belongs to any relative of the husband with whom in a domestic relationship the woman has lived, the conditions mentioned in Section 2(s) are satisfied and the said house will become a shared household.

70. *We are of the view that this Court in S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56 although noticed the definition of “shared household” as given in Section 2(s) but did not advert to different parts of the definition which makes it clear that for a shared household there is no such requirement that the house may be owned singly or jointly by the husband or taken on rent by the husband. The observation of this Court in S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56, that definition of “shared household” in Section 2(s) is not very happily worded and it has to be interpreted, which is sensible and does not lead to*



chaos in the society also does not commend us. The definition of “shared household” is clear and exhaustive definition as observed by us. The object and purpose of the Act was to grant a right to aggrieved person, a woman, of residence in shared household. The interpretation which is put by this Court in S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56 if accepted shall clearly frustrate the object and purpose of the Act. We, thus, are of the opinion that the interpretation of definition of “shared household” as put by this Court in S.R. Batra v. Taruna Batra, (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56 is not correct interpretation and the said judgment does not lay down the correct law.

.....

- 90.** *Before we close our discussion on Section 2(s), we need to observe that the right to residence under Section 19 is not an indefeasible right of residence in shared household especially when the daughter-in-law is pitted against aged father-in-law and mother-in-law. The senior citizens in the evening of their life are also entitled to live peacefully not haunted by marital discord between their son and daughter-in-law. While granting relief both in application under Section 12 of the 2005 Act or in any civil proceedings, the Court has to balance the rights of both the parties. The directions*



issued by the High Court [Ambika Jain v. Ram Prakash Sharma, 2019 SCC OnLine Del 11886] in para 56 adequately balance the rights of both the parties.

91. *In view of the foregoing discussions, we answer Issues 1 and 2 in the following manner:*

91.1. *The definition of “shared household” given in Section 2(s) cannot be read to mean that shared household can only be that household which is household of the joint family of which husband is a member or in which husband of the aggrieved person has a share.*

91.2. *The judgment of this Court in S.R. Batra v. Taruna Batra (2007) 3 SCC 169 : (2007) 2 SCC (Cri) 56 has not correctly interpreted Section 2(s) of the 2005 Act and the judgment does not lay down a correct law.”*

23. From the aforesaid decision, it is clear that the Hon’ble Supreme Court gave a broad and purposive interpretation to the meaning of ‘shared household’. What flows from the afore-quoted decision is that the definition of ‘shared household’ under section 2(s) of the DV Act, 2005 is an exhaustive definition and the shared household could belong to any relative of the husband, however, it is amply emphasized for our present purpose that the aggrieved woman must have lived or be living in the shared household with such relative of the



husband against whom the claim has been filed under the D.V. Act, 2005. Finally, the Hon'ble Supreme Court also held that the right of residence, as provided to the daughter-in-law under section 19 of the Act is not an indefeasible right and hence the Court has to balance the rights of the parties. Reading the provisions of section 2(f) and 2(s) together with the aforesaid judgment, an aggrieved woman who has been in a domestic relationship either in the past or at present with the respondent, according to section 2(q) of the Act, and has been subjected to domestic violence can seek the reliefs provided under Chapter-IV of the DV Act, 2005. A domestic relationship would entail persons living together or have lived together in a shared household for instance by way of consanguinity, adoption, marriage, relationship in the nature of marriage or family members living together as a joint family. Therefore, a domestic relationship arises only when the aggrieved person had lived together with the respondents in a shared household.

24. The Hon'ble Supreme Court in the case of ***Prabha Tyagi vs. Kamlesh Devi*** reported as ***AIR 2022 SC 2331*** had held that it is not mandatory for the aggrieved person when she is related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family



members living together as a joint family to actually reside with those persons against whom the allegations have been levelled at the time of commission of domestic violence. If a woman has the right to reside in the shared household under section 17 of the DV Act, 2005 and such a woman becomes an aggrieved person or victim of domestic violence then she can seek reliefs under the provisions of the aforesaid Act including the enforcement of her right to live in a shared household. In other words, if the married couple sets up a separate residence, even then the complaint under the Act can be filed against the 'respondents' who were previously residing in the same shared household. Therefore, the essential requirement is that at some of time the aggrieved person and the 'respondent' must have resided together in a domestic relationship.

25. Therefore, existence of a shared household is necessary, no matter in the past or present, to bring an action, which in the present case is pertinently lacking on account of the family partition which had been effectuated in the year 1982 itself i.e. much prior to the marriage of opposite party no.2 with the deceased petitioner no.1.

26. In the present case, there was a family partition among the brothers i.e. the deceased husband and



brother-in-law of opposite party no.2, therefore, the claim of the opposite party no.2 is not sustainable against her brother-in-law and his wife since the opposite party no.2 did not reside as a joint family in a shared household with them.

27. The opposite party no.2 had left the matrimonial home in August, 2002 itself and started living in her paternal home at Patna. On account of partition, as noted above, the deceased husband and the brother-in-law of the opposite party no.2 were living separately, in these circumstances, there could be no domestic relationship by virtue of joint family or even otherwise which can be established as against the brother-in-law and sister-in-law of the opposite party no.2 within the meaning of the DV Act.

28. Recently the Hon'ble Supreme Court in the case of ***Geddam Jhansi v. State of Telangana***, reported as **2025 SCC OnLine SC 263** has observed that Courts must exercise caution and be judicious in entertaining criminal proceedings arising out of domestic disputes against relatives and observed that such proceedings should only be entertained when specific allegations are made with credible material to support the same. Relevant paragraphs of the aforesaid decision, read as under:-

“33. *It goes without saying that genuine cases of cruelty and violence in domestic sphere,*



which do happen, ought to be handled with utmost sensitivity. Domestic violence typically happens within the four walls of the house and not in the public gaze. Therefore, such violence is not noticed by public at large, except perhaps by the immediate neighbours. Thus, providing visible evidence by the victim of domestic violence may not be easily forthcoming and producing direct evidence may be hard and arduous, which does not necessarily mean that domestic violence does not occur. In fact, to deal with this pernicious phenomenon, stringent statutes like Protection from Domestic Violence Act, 2005, have been enacted with very expansive meaning and scope of what amounts to domestic violence. Since, violence perpetrated within the domestic sphere by close relatives is now criminalised entailing serious consequences on the perpetrators, the courts have to be careful while dealing with such cases by examining whether there are specific allegations with instances against the perpetrators and not generalised allegations. The purpose and mandate of the law to protect the victims of domestic violence is of paramount importance, and as such, a balance has to be struck by ensuring that while perpetrators are brought to book, all the family members or relatives are not indiscriminately brought



within the criminal net in a sweeping manner.

35. *We are, thus, of the view that in criminal cases relating to domestic violence, the complaints and charges should be specific, as far as possible, as against each and every member of the family who are accused of such offences and sought to be prosecuted, as otherwise, it may amount to misuse of the stringent criminal process by indiscriminately dragging all the members of the family. There may be situations where some of the family members or relatives may turn a blind eye to the violence or harassment perpetrated to the victim, and may not extend any helping hand to the victim, which does not necessarily mean that they are also perpetrators of domestic violence, unless the circumstances clearly indicate their involvement and instigation. Hence, implicating all such relatives without making specific allegations and attributing offending acts to them and proceeding against them without prima facie evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence, would amount to abuse of the process of law.”*

29. Further, in the case of ***Kamal vs. State of Gujarat*** reported as **2025 INSC 504**, the Hon’ble Supreme Court while quashing an F.I.R. filed under section 498-A IPC,



had held that allegations of taunts cannot justify initiation of criminal proceedings against the relatives including parent-in-laws in a matrimonial discord. Relevant paragraphs of the aforesaid decision read as under:-

“11. What is important, for the purposes of deciding this case, is that in the FIR there is no specific allegation of demand of dowry by the accused. Further, the allegation of harassment of the complainant at the instance of the parents in law is limited to extending taunts and custody related issues of minor children. However, there is no disclosure about the nature of those taunts. Admittedly, the second respondent was married to the first appellant in the year 2005 and for last several years since before lodging the FIR, the complainant had been working and staying in rented accommodations at different places. Besides that, the FIR was lodged on 20.07.2019, just three days after service of summons of the divorce proceedings initiated by the first appellant. In these circumstances, we will have to consider whether the impugned proceedings are vexatious and mala fide, particularly in the context of a matrimonial dispute where time and again Courts have been cautioned to be circumspect to obviate malicious prosecution of family members of the main accused.



12. *Even if we assume that there are some allegations of assault and of physical and mental torture of the complainant, but they are against the husband. As against the parents in law, the allegations are only of extending taunts and of not parting with the money for managing household expenses. Specific details in respect of those taunts have not been disclosed. Moreover, a few taunts here and there is a part of everyday life which for happiness of the family are usually ignored. Interestingly, as per own allegations in the FIR, the complainant admits that when she reported those issues to her parents and uncle, she was counselled to bear patience. In the circumstances, in our considered view, no case to proceed against the parents in law, namely, the second and third appellant is made out. In so far as the first appellant is concerned, there are allegations of physical and mental torture of the complainant at his behest. Consequently, the case may proceed qua the first appellant.*
13. *Before parting, we would like to observe that the High Court adopted an extremely pedantic approach while dealing with the quashing petition of the appellants. No doubt, in ordinary course, while exercising power under Section 482 of the CrPC, the Court is not required to test the correctness of the allegations, but in matters arising from matrimonial disputes, particularly*



where the allegations are levelled after many years of marriage and, that too, after one party initiates divorce proceeding against the other, the Court must be circumspect in taking the allegations at their face value. Rather, it must examine, where allegations of mala fides are there, whether those allegations have been levelled with an oblique purpose. More so, while considering the prayer of the relatives of the husband.”

30. In the present case, the allegations levelled against the petitioners are general and bald in nature and are instituted only after the deceased husband had initiated the divorce proceedings as well as proceeding under the Guardianship and Wards Act.

31. At this stage it is apposite to note that the opposite party no.2 had raised the issue of inheritance and claim of her son as well before this Court. The DV Act, 2005 is a welfare legislation meant for protection of women who are subjected to domestic violence. The claim of inheritance or share in the property of the deceased husband of the opposite party no.2 can not be adjudicated in a proceeding under the DV Act, 2005. The opposite party no.2, is at liberty to avail all remedies available under law to seek redressal of her grievances with respect to the properties alleged to have been disposed of



by the petitioners, but a civil dispute relating to inheritance claim over the properties of the deceased husband of the opposite party no.2 can not be canvassed and armed with the provisions of the DV Act, 2005 against her mother-in-law, brother-in-law and sister-in-law who are the surviving petitioners in the instant two cases.

32. Recently, the Hon'ble Supreme Court in the case of ***Saurabh Kumar Tripathi vs. Vidhi Rawal reported as 2025 SCC OnLine SC 1158*** while dealing with the inherent powers of the High Court to quash the proceedings under the DV Act, 2005 had held as under –

“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 Kumar. 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.

36. *We must also note here that against an order passed by a learned Magistrate, there is an appeal provided under Section 29 to the Court of Session. In contrast, generally, there is no remedy of appeal available against an order taking cognisance of an offence or an order issuing process. This is another reason why the High Court should exercise caution when exercising its inherent jurisdiction to quash proceedings under Section 12 of the D.V. Act, 2005.*
37. *There are decisions of the High Courts taking a view that the jurisdiction under Section 482 of the CrPC is not available to quash proceedings of an application under Section 12(1) of DV Act, 2005. The decisions are primarily based on the premise that proceedings under Section 12(1) are predominantly of a civil nature. The said view is not correct for the reasons set out earlier.*
38. *Before we part with this Judgment, we must mention here that one of us (Abhay S. Oka, J) is a party to a Judgment dated 27nd October, 2016 of the Bombay High Court in Writ Petition 2473 of 2016 in which the view taken is that remedy under Section 482 of the CrPC is not available for quashing the proceedings under Section 12(1) of the DV Act, 2005. This view was found to be incorrect by a full Bench of the*



same High Court. As judges, we are duty-bound to correct our mistakes in properly constituted proceedings. Even for Judges, the learning process always continues.

39. *To conclude, the view taken in the impugned order of the High Court that a petition under Section 482 of the CrPC for challenging the proceedings emanating from Section 12(1) of the DV Act, 2005 is not maintainable, is not the correct view. We hold that High Courts can exercise power under Section 482 of CrPC (Section 528 of the BNSS) for quashing the proceedings emanating from the application under Section 12(1) of the DV Act, 2005, pending before the Court of the learned Magistrate. However, considering the object of the DV Act, 2005, the High Courts should exercise caution and circumspection when dealing with an application under Section 12(1). Normally, interference under Section 482 is warranted only in the case of gross illegality or injustice.”*

33. From the records, it appears that the petitioners including the deceased husband of the opposite party no.2 and his brother had partitioned long back i.e. on 17.10.1982. Further, all the relevant documents including the policy papers of the deceased husband and a demand draft of Rs.10,00,000/- prepared in favour of the son of the opposite



party no.2 have been handed over to the opposite party no.2 in course of hearing of the quashing petition, as indicated above.

34. From the facts of the case, it appears that the present case has been filed under the Domestic Violence Act after the deceased husband had filed the divorce case as well as a proceeding under the Guardianship and Wards Act. Further, the opposite party no.2 had initiated this proceeding under the Domestic Violence Act after filing a criminal case under section 498-A of the Indian Penal Code.

35. In the opinion of this Court, the present proceeding under the Domestic Violence Act has been filed by the opposite party no.2 only with a view to exert pressure upon the petitioners. The criminal proceeding cannot be used as a tool to exert pressure upon the petitioners for extracting money when the husband of the opposite party no.2 had already partitioned and got his share in the ancestral property.

36. Considering the fact that the criminal proceeding against the brother-in-law and sister-in-law of the opposite party no.2 has already been quashed by this Court, coupled with the fact that the claim of the opposite party no.2 under the Domestic Violence Act cannot be sustained in view of the conspectus of decisions and the discussions made herein



above particularly the fact that the deceased husband and his brother were already partitioned way back in the year 1982 itself, and the allegations against the mother-in-law of the opposite party no.2 are general and non-specific in nature therefore the same could not be sustained in the eyes of the law. The claim of the opposite party no.2 with regard to the inheritance of her son in the property of his father cannot be adjudicated in a proceeding under the Domestic Violence Act.

37. In view of the above discussions, these applications are allowed. Accordingly, the entire proceedings arising out of the Domestic Violence Case No.02 of 2011 pending in the court of learned Judicial Magistrate, 1st Class, Patna, is hereby quashed.

(Sandeep Kumar, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	18.07.2025
Transmission Date	18.07.2025

