

**IN THE HIGH COURT AT CALCUTTA  
CIRCUIT BENCH AT JALPAIGURI  
CRIMINAL REVISIONAL JURISDICTION  
APPELLATE SIDE**

**PRESENT:  
THE HON'BLE JUSTICE UDAY KUMAR**

**CRR 178 of 2025**

**Samrat Sarkar & Ors.  
-Vs.-  
Smt. Manika Karmakar**

For the Petitioners : Mr. Bhaskar Roy Mahasaya  
Ms. Ambalika Ghosh

For the Opposite Party : Ms. Priti Das

Hearing concluded on : 24.07.2025

Judgment on : 28.07.2025

**Uday Kumar, J.:-**

- 1.** The present revisional application, filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 482 of the Code of Criminal Procedure, 1973), seeks the extraordinary intervention of this Court to quash the proceedings of Misc. Petition No. 489 of 2024 initiated on the application filed by Opposite Party, Manika Karmakar, under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as "the DV Act"). The petitioners, comprising the husband (Samrat Sarkar) and his parents, challenged the domestic violence proceedings under Misc. Petition No. 489 of 2024, on the grounds of statutory non-compliance of Section 12(4) of the DV

Act, a blatant abuse of the legal process, predicated on both procedural non-compliance and, more significantly, the deliberate suppression of crucial material facts by Opposite Party. They submitted that the continuation of such a proceeding, based on suppressed facts and questionable motives, amounts to harassment, particularly for the elderly and ailing petitioners.

- 2.** The foundational facts of the marital dispute reveal a marriage solemnized on December 13, 2021, which quickly descended into discord. Opposite Party alleged "physical and mental torture" within months, claiming her husband's undue influence by his mother and her subsequent financial distress, leading to her departure from the matrimonial home on August 19, 2023. This separation marked the beginning of a series of legal and pre-legal actions that are central to the present controversy.
- 3.** Significantly, Opposite Party initiated Matrimonial Suit No. 191/2024 for divorce under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955, prior to the instant proceeding initiated on her DV Act application. In an attempt at reconciliation, the husband-initiated pre-litigation proceedings at the District Legal Services Authority (DLSA), Jalpaiguri, on October 31, 2023. These efforts proved futile, with a critical development emerging on February 12, 2024, during the DLSA proceedings. Here, Manika Karmakar unequivocally refused to return to her matrimonial home, demanding a sum of Rs. 50,00,000/- (rupees fifty lakhs) as compensation for granting a divorce. Crucially, she also admitted on record that she was an employee of Jalpaiguri Government

Polytechnic Institute with "sufficient income to maintain herself." Further, on December 16, 2023, a formal acknowledgment confirmed her voluntary removal of all her 'stridhan' and personal belongings from the matrimonial home.

4. It was against this detailed backdrop of matrimonial discord, a pending divorce suit initiated by the wife, failed conciliation efforts, and explicit admissions regarding her financial independence, that Manika Karmakar filed the DV Act application (Misc. Petition No. 489 of 2024) on December 23, 2024. In this complaint, she sought substantial monetary compensation and monthly maintenance, critically omitting any disclosure of her established employment and income. Moreover, in a pivotal misrepresentation, the Section 12 application form falsely indicated the absence of any prior litigation under the Hindu Marriage Act, by marking 'X' against the relevant query, despite her own divorce suit being actively pending. The petitioners further emphasized the advanced age (75 years) and ailments of the father-in-law, who serves as the primary financial support, and the nascent stage of the husband's legal career.
5. Mr. Bhaskar Roy Mahasaya, the learned Advocate for the petitioners, initially raised concerns about non-compliance with Section 12(4) of the DV Act, which mandates an expeditious first hearing ordinarily within three days of receiving the application, are not only directory in nature but also a procedural safeguard. Its violation, he submitted, goes to the root of the matter, demonstrating a laxity or irregularity that should vitiate the entire proceeding. While acknowledging that procedural lapses

might sometimes be curable, he asserted that in the context of a statute designed for swift action, such a breach indicates a fundamental disregard for the prescribed legal framework.

6. He underscored the alleged deliberate suppression of material facts that the concealment of Opposite Party's employment and admitted sufficient income, which directly impacts her claims for monetary relief, and the stark non-disclosure of her own pending divorce suit. He referred Annexure "P-5", the admission of Opposite Party, made on February 12, 2024 during the DLSA conciliation that she was an employee of Jalpaiguri Government Polytechnic Institute and possessed "sufficient income to maintain herself." Despite this unequivocal admission, she proceeded to file the DV application on December 23, 2024, seeking substantial monetary relief, including Rs. 20,000/- per month as maintenance, without disclosing her significant earning capacity. Mr. Mahasaya argued that this omission was not accidental but a calculated move to mislead the learned Magistrate into believing she was financially dependent, thereby securing unwarranted financial benefits. He emphasized that while an earning wife can seek maintenance, her actual income is a vital factor in determining the quantum, and its suppression directly impacts the fairness of the proceeding and burdens the petitioners unduly.
7. Mr. Mahasaya also highlighted the misrepresentation of facts in Column 4 of her Section 12 DV application by marking 'X' against the query regarding the pending Matrimonial Suit No. 191/2024, filed by herself under the Hindu Marriage Act, as a blatant suppression of the fact. He

contended that such a pivotal fact, revealing the existing legal framework of the marital dispute, was indispensable for the Magistrate to appreciate the full context of the case. He dismissed the Opposite Party's explanation of a "typographical mistake" as an utterly unconvincing excuse for such a material falsehood. He forcefully argued that these suppressions were not mere oversights but calculated acts to mislead the Court and gain an unfair financial advantage, thereby constituting a clear abuse of the process of law.

**8.** Mr. Mahasaya further submitted that the impugned proceeding was falsely brought against them as a tool for financial leverage within the broader matrimonial dispute. In support of his contention, he presented the timeline of events:

- i. the Opposite Party voluntarily left the matrimonial home on August 19, 2023;
- ii. took back her 'stridhan' on December 16, 2023; and initiated a divorce suit.

Following these actions, the husband attempted reconciliation at DLSA in October 2023, where the wife, on February 12, 2024, not only refused to cohabit but also demanded Rs. 50 lakhs for divorce. Only after these events, in December 2024, the impugned proceeding was started on the application of Opposite Party which signify that the DV application was filed as an afterthought, designed to exert financial pressure on the petitioners for the divorce settlement, rather than to genuinely address any ongoing domestic violence. He asserted that allowing such proceedings to

continue would amount to condoning the misuse of a benevolent social legislation for pecuniary gain.

9. Finally, Mr. Mahasaya submitted that Petitioner No. 2, the father-in-law, is a 75-year-old pension holder suffering from various ailments, and the primary breadwinner for the family, Petitioner No. 1, the husband, is a newly practicing advocate, not yet financially stable, and significantly dependent on his father, are facing undue harassment. Therefore he prays for quashing of the proceeding summarily, as it apparently seems to contrary to the interests of justice.
10. Conversely, Ms. Priti Das, learned Advocate for the Opposite Party argued that the petitioners raised all facts for the first time in this revisional application, implying that they did not adequately present them before the Trial Court. She suggested that this belated introduction of facts should not be a ground for quashing the ongoing proceedings.
11. In respect of alleged non-compliance with Section 12(4) of the DV Act, Ms. Das firmly contended that it constitutes a mere "procedural laches" and does not impact the fundamental merits or jurisdiction of the case. Such a procedural irregularity, if it occurred, should not be deemed fatal to the entire proceeding, as it does not affect the "root of the case" or cause any incurable prejudice to the petitioners. She implied that the spirit of the DV Act, which is to provide protection to women, should not be defeated by minor procedural delays.
12. Regarding the suppression of facts, she submitted that the non-disclosure of the pending divorce suit was merely a "typographical mistake" and such a clerical error, should not be treated as a deliberate

act of suppression. It does not warrant the drastic step of quashing the entire proceeding. The essence of the complaint under the DV Act stands independently of the divorce proceedings.

- 13.** In respect of the Opposite Party's employment and income, Ms. Das while conceding her client's earning capacity, she maintained that an earning woman is nonetheless entitled to claim compensation and maintenance under the DV Act, emphasizing the Act's protective purpose. She maintained that the petitioners cannot escape their responsibility to provide maintenance or compensation simply because the Opposite Party is employed. The Act seeks to ensure that the aggrieved person lives a life free from violence and financial hardship caused by such violence.
- 14.** Ms. Das ultimately argued that the merits of the domestic violence allegations should be tested at trial, and premature intervention by a revisional court would be inappropriate. Therefore, she prayed for the dismissal of this revisional application as it has no merit.
- 15.** The central question that encapsulates the essence of this revisional application, and upon which the ultimate outcome rests, can be precisely framed as follows:

*"Whether the Domestic Violence Act proceedings (Misc. Petition No. 489 of 2024) initiated by the Opposite Party, Manika Karmakar in violation Section 12(4) of the DV Act, constitute an abuse of the process of law, warranting their quashing, particularly in light of the alleged deliberate suppression of material facts concerning her employment, sufficient income, and the pendency of a prior divorce suit, coupled with her stated financial demands during conciliation and the timeline of events?"*

**16.** To resolve this, a meticulous examination of the interplay between the procedural requirements of the D.V. Act and the principles governing suppression of facts and abuse of judicial process is imperative.

**17.** Section 12(4) of the DV Act mandates:

*"The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court."*

**18.** While considering the procedural aspect, it is pertinent to note that Section 12(4) of the DV Act, which mandates the first hearing date to be fixed "ordinarily" within three days, is generally considered directory, not mandatory. Its non-compliance, in isolation, may not automatically vitiate the entire proceeding unless substantial prejudice or a fundamental injustice is demonstrated. While expeditious disposal is desired, a mere procedural irregularity, as termed by the Opposite Party's counsel, usually does not fundamentally undermine the core of the case. However, its relevance amplifies when viewed in conjunction with more substantive infirmities, reflecting on the overall diligence and bona fides in pursuing the application.

**19.** The core of the petitioners' challenge, however, unequivocally rests on the alleged deliberate suppression of material facts by the Opposite Party and the consequent abuse of the judicial process. This issue directly implicates the fundamental equitable principles that "one who seeks equity must do equity" and "he who comes to court must come with clean hands." Deliberate suppression of material facts and abuse of the process of law are well-established grounds for quashing proceedings, as

consistently recognized by the Hon'ble Supreme Court and various High Courts.

- 20.** The most egregious suppression by the Opposite Party is her failure to disclose her employment at Jalpaiguri Government Polytechnic Institute and her explicit admission, made during DLSA conciliation on February 12, 2024 (Annexure P-5), that she had "sufficient income to maintain herself." This admission, occurring about eight months prior to the filing of her DV application, starkly contradicts her subsequent claim for substantial monetary relief and monthly maintenance from the petitioners, creating a false and misleading impression of financial destitution. This amounts to a deliberate misrepresentation of her financial standing, a fact critically material for the determination of monetary relief under Section 20 of the DV Act. While an earning wife is not absolutely barred from claiming maintenance, the quantum of such relief is intrinsically linked to the financial status of both parties. The deliberate suppression of one's own significant income constitutes a direct attempt to mislead the court regarding her financial needs and the petitioners' liability, essentially amounting to a fraudulent misrepresentation of a material fact.
- 21.** Equally concerning is the Opposite Party's act of marking 'X' in Column 4 of the Section 12 DV application, falsely indicating no pending litigation under the Hindu Marriage Act, despite her own Matrimonial Suit No. 191/2024 for divorce being actively pending. This cannot be simply dismissed as a "typographical mistake." This is a conscious and active concealment of a fact that fundamentally alters the Court's

perception of the marital dispute. The pendency of a divorce suit, initiated by the "aggrieved person" herself, is not merely informational; it defines the existing legal framework of the marital relationship and indicates the parties' intent. Such suppression prevents the learned Magistrate from acquiring a complete and accurate understanding of the entire gamut of litigation, signifying a patent lack of transparency and an attempt to secure an unfair advantage by presenting an incomplete factual matrix.

**22.** Furthermore, the Opposite Party's demand for Rs. 50 lakhs as compensation for divorce during the DLSA conciliation further solidifies the petitioners' argument that the DV Act is being instrumentalized for financial leveraging rather than genuinely seeking protection from domestic violence. This demand, coupled with her voluntary departure from the matrimonial home and the taking of her 'stridhan' well before filing the DV application, suggests a pre-planned strategy rather than a genuine cry for immediate protection from ongoing violence. The DV Act, a welfare legislation, is designed to protect victims of domestic violence; it is not a tool to facilitate financial extortion in matrimonial disputes. Allowing such misuse of salutary legislation undermines its very purpose and causes immense harassment to respondents, particularly vulnerable elderly parents.

**23.** At the outset, it is imperative to delineate the scope and limitations of the inherent power of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, as the petitioners prayed for quashing of the impugned domestic violence proceeding. It is true that power of

quashing is extraordinary in nature. It should be exercised sparingly and with caution, primarily to prevent abuse of the process of any Court or to otherwise secure the ends of justice. The Hon'ble Supreme Court has consistently held that this power should not stifle a legitimate prosecution but may be invoked where proceedings are manifestly absurd, inherently improbable, or initiated with an ulterior motive. *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604, laid down illustrative categories, including cases where proceedings are "manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance." While *Shaurabh Kumar Tripathi vs. Vidhi Rawal*, Criminal Appeal No. 2688 of 2025, cautions against routine quashing of DV proceedings, it simultaneously reiterates the High Courts' empowerment to quash proceedings in cases of "gross illegality or injustice" and to prevent "abuse of the process of Court." The Hon'ble Supreme Court in *K. Srinivas vs. K. Sunita*, (2014) 11 SCC 344, and numerous other pronouncements, has deprecated the misuse of matrimonial laws. The present case necessitates a meticulous examination within these well-established parameters. The deliberate suppression of material facts, particularly those impacting the pecuniary claims and the nature of the relationship, squarely falls within the ambit of abuse of the process of law.

- 24.** The Hon'ble Supreme Court, in numerous judgments including *S.P. Chengalvaraya Naidu v. Jagannath*, AIR 1994 SC 853, has sternly observed that "a fraud on court is an act of deliberately deceiving the Court with a view to obtain an unfair advantage," reiterating that "A

litigant, who has suppressed a material fact from the Court, is guilty of playing fraud on the Court." While the DV Act is a welfare legislation, it cannot be wielded with malice or dishonesty. The very foundation of legal proceedings rests on the parties presenting true and complete facts. Deliberate suppression of material facts, especially those directly bearing on the claimed reliefs (financial independence for monetary relief) and the overall context of the dispute (pending divorce proceedings), amounts to a clear abuse of the process of law.

- 25.** In any event, the timeline and sequence of events strongly suggest that the DV application was filed not out of genuine need for protection from ongoing domestic violence, but as a coercive tactic to extract a financial settlement. The Opposite Party left the matrimonial home in August 2023, initiated a divorce suit, voluntarily retrieved her 'stridhan' in December 2023, and crucially, during DLSA conciliation in February 2024, refused cohabitation while demanding Rs. 50 lakhs for divorce. The DV application was then filed in December 2024, almost a year after her departure and significant actions indicating her intent to permanently separate and seek financial terms. This chronology undermines the urgency often associated with DV Act applications. The Act's primary purpose is to provide immediate and effective civil remedies to victims, not to be a supplementary tool for extracting inflated compensation in divorce proceedings, particularly when the 'aggrieved person' has consciously chosen to separate and initiate divorce on other grounds. Allowing such proceedings to continue would permit the misuse of a benevolent statute for collateral purposes,

causing undue harassment to the petitioners, particularly the elderly father-in-law and the financially dependent husband. The allegations of "torture" regarding the husband's decision-making capacity, while indicative of marital discord, do not readily fit the gravamen of "domestic violence" that the Act seeks to redress, especially absent more concrete allegations of physical or severe mental abuse.

- 26.** Having carefully considered the submissions made by both the learned counsel and having meticulously perused the records, this Court finds significant merit in the petitioners' contention that the DV proceedings initiated by the Opposite Party constitute an abuse of the process of law. The deliberate suppression of crucial material facts, specifically her employment and sufficient income, and the pendency of a divorce suit, is a serious infirmity that strikes at the very root of the Opposite Party's claim for monetary reliefs and gravely calls into question her bona fides. Her conduct during the DLSA conciliation, where she admitted her employment and demanded an exorbitant sum for divorce, further reinforces the impression that the DV Act application may have been filed with ulterior motives, rather than a genuine seeking of protection from domestic violence. While the DV Act is a benevolent legislation, it cannot be allowed to be misused to harass individuals or to gain an unfair advantage in matrimonial disputes. Allowing such proceedings to continue despite clear suppression of material facts would amount to a travesty of justice and would encourage the misuse of protective laws. The procedural non-compliance with Section 12(4) of the DV Act, while not fatal in itself, takes on greater significance when viewed in

conjunction with the more serious allegations of material suppression and abuse of process, contributing to the overall impression of a proceeding lacking in bona fides.

- 27.** In view of aforesaid analysis of the facts, the arguments advanced by both sides, and the relevant legal principles, I find compelling reasons to conclude that the Domestic Violence Act proceeding initiated by the Opposite Party, Manika Karmakar, against the petitioners is an abuse of the process of law. The deliberate suppression of her employment and admitted "sufficient income to maintain herself," alongside the active concealment of the ongoing divorce suit initiated by her, are not minor errors but fundamental misrepresentations that go to the very core of her claims for monetary reliefs and the overall bona fides of her application. When viewed in conjunction with her explicit demand for a substantial sum for divorce during conciliation and the timeline of her actions prior to filing the DV application, it becomes evident that the DV proceedings have been initiated not primarily for genuine protection against domestic violence, but for ulterior motives, specifically to exert financial pressure in the context of a matrimonial dispute. Such conduct cannot be condoned, as it undermines the integrity of the judicial process and constitutes a misuse of a welfare legislation. Allowing these proceedings to continue would amount to perpetuating an injustice and encouraging the abuse of the law. While this Court is always cautious in exercising its extraordinary power to quash proceedings, the present case presents a clear and undeniable instance where such intervention

is necessary to secure the ends of justice and prevent further harassment to the petitioners.

- 28.** Consequentially, I am of the considered opinion that the impugned divorce proceeding in Misc. Petition No. 489 of 2024, pending before the learned Judicial Magistrate, 1<sup>st</sup> Court, at Jalpaiguri, is an abuse of the process of law and is liable to be quashed.
- 29.** Therefore, the revisional application, CRR 178 of 2025, is allowed.
- 30.** The proceedings in Misc. Petition No. 489 of 2024, pending before the learned Judicial Magistrate, 1<sup>st</sup> Court, at Jalpaiguri, is hereby quashed.
- 31.** There shall be no order as to costs.
- 32.** All connected applications, if any, stand disposed of.
- 33.** The Trial Court Records (TCR), if any, shall be sent down to the Learned Trial Court at once.
- 34.** The Case Diary, if any, be returned forthwith.
- 35.** Let a copy of this judgment be sent to the learned court below forthwith for necessary information and compliance.
- 36.** Urgent Photostat certified copy of this order, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

**(Uday Kumar, J.)**