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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1343/2025 & CRL.M.A. 5936/2025

SH. MUKUND KUMAR JHA AND ORSPetitioners

Through: Mr. Adarsh Varma and
Ms. Swati Kumar,
Advocates.

versus

STATE (NCT OF DELHI) AND ANRRespondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Amit, PS S.P. Badli.
Mr. Sanjeev Kumar and
Ms. Rita Jha, Advocates
for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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08.08.2025

1. The present petition is filed by the petitioners under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking quashing of the proceedings in Complaint Case No. 1204/2018.

2. It is averred that the marriage between Petitioner No. 1 and Respondent No. 2 was solemnized on 21.04.2016 as per Hindu Rites and Rituals. The other petitioners are the family members of Petitioner No. 1.

3. It is alleged that on 23.06.2016, Respondent No. 2 told Petitioner No. 1 that his father would die very soon and that he should ask for his share in the property. Petitioner No. 1's refusal infuriated Respondent No. 2 and she allegedly threatened Petitioner No. 1 that she would jump of the terrace if he did not ask his father for a share in the property.

4. It is alleged that after three months of marriage, Petitioner



No. 1 discussed with Respondent No. 2 of having a child, however, on one pretext or the other she avoided the said topic and started quarrelling with Petitioner No. 1.

5. It is alleged that in November 2016, the parents of Petitioner No. 1 fell ill and he requested Respondent No. 2 to take care of them, upon which Respondent No. 2 said that it is good and that they will die soon. She repeatedly pressurized Petitioner No. 1 to tell his father to transfer his share of the property to him.

6. It is alleged that the situation between Petitioner No. 1 and Respondent No. 2 never improved and such instances repeatedly took place between them till 13.11.2017.

7. It is alleged that despite repeatedly trying, Respondent No. 2 was not able to conceive, upon which, Petitioner No. 1 asked her to accompany him to a doctor and get herself medically examined.

8. It is alleged that on 16.11.2017, Petitioner No. 1 after getting Respondent No. 2 medically examined, was shocked to learn that she was physically incapable of conceiving due to absence of a uterus and left kidney.

9. It is alleged that the relationship between Petitioner No. 1 and Respondent No. 2 further degraded and on 06.12.2017 without informing anyone, Respondent No. 2 left her matrimonial home and has since been residing at her parental home.

10. Subsequently, on 19.12.2017, Petitioner No. 1 gave a complaint to the police detailing out the cruelties inflicted by Respondent No. 2 on his family members.

11. In January 2018, Petitioner No. 1 filed a petition under **CRL.M.C. 1343/2025**

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Sections 12(1)(c) and 13(1)(ia) of the Hindu Marriage Act, 1955 ('HMA') bearing HMA No. 136/2018 before the learned Trial Court.

12. Consequently, in February 2018, pursuant to the service of summons in the aforesaid petition, Respondent No. 2 filed a complaint against the petitioners under Section 12 of the Prevention of Women from Domestic Violence Act, 2005 ('DV Act') bearing Complaint Case No. 1204/2018 before the learned Trial Court.

13. The learned Trial Court *vide* order dated 12.07.2018 took cognizance and summoned the petitioners under the DV Act proceedings.

14. On 05.11.2024, the learned Trial Court allowed the petition filed by Petitioner No. 1 under Section 12(1)(c) of the HMA and thereby declared the marriage between Petitioner No. 1 and Respondent No. 2 as null and void.

15. The learned counsel for the petitioners submits that the marriage between Petitioner No. 1 and Respondent No. 2 stands annulled in view of the judgement dated 05.11.2024 passed by the learned Trial Court in HMA No. 136/2018.

16. He submits that the essential condition of there being a domestic relationship between the parties in order to proceed with a complaint under Section 12 of the DV Act doesn't exist in view of the aforesaid judgment.

17. He further submits that even otherwise the consent of Petitioner No. 1 to marry Respondent No. 2 was taken by concealing the fact that Respondent No. 2 was physically incapable of conceiving due to the absence of a uterus and left kidney.



18. *Per contra*, the learned counsel for Respondent No. 2 vehemently opposes the arguments raised by the learned counsel for the petitioners and consequently prays that the present petition be dismissed.

19. I have heard the learned counsel for the parties and perused the record.

20. In the present case, the petitioners are seeking quashing of the proceedings initiated against them by Respondent No.2 under Section 12 of the DV Act. Before delving into the merits of the present case, it is important to take note of the scope of inherent jurisdiction that rests with this Court to quash criminal proceedings. In the case of ***State of Haryana v. Bhajan Lal* : 1992 Supp (1) SCC 335**, the Hon'ble Apex Court has expounded upon the said aspect. The relevant portion of the judgment is reproduced hereunder:

“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 concerned Act (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 concerned Act, 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.”

(emphasis supplied)

21. Specifically discussing the scope of interference against proceedings under the DV Act, the Hon’ble Apex Court in the case of **Saurabh Kumar Tripathi v. Vidhi Rawal : (2025) SCC OnLine SC 1158** has observed that while this Court ought to be slow in quashing such proceedings, it is empowered to do the



same if there is gross illegality or abuse of the process of law.
The relevant portion of the judgement is reproduced hereunder:

“The power of the High Court under Section 482 of the CrPC and Section 528 of the BNSS to quash proceedings under the D.V Act, 2005

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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.”

22. It is undisputed that the marriage between Petitioner No. 1 and Respondent No. 2 has been declared null and void by the learned Trial Court *vide* judgment dated 05.11.2024. The learned Trial Court in the aforesaid judgment held that the marriage between Petitioner No. 1 and Respondent No. 2 was on the basis of a fraud committed by Respondent No. 2. It was further noted that the consent of Petitioner No. 1 to marry Respondent No. 2 was taken by concealing the material fact of Respondent No. 2 not possessing a uterus and left kidney, therefore, such concealment amounted to fraud. It was also observed that after discovery of fraud on 16.11.2017, Petitioner No.1 did not live with Respondent No.2 as her husband.

23. It is pointed out that the said judgment has only now been



challenged by Respondent No.2 before this Court and notice is yet to be issued in the said case. At this stage, the said judgment as well as the observations made therein still subsist.

24. It is argued on behalf of Respondent No.2 that the parties were admittedly staying together as a couple and even if the marriage is declared to be nullity, the same has no bearing on the existence of a domestic relationship.

25. This Court is cognizant of the fact that DV Act is a beneficial legislation that has been enacted to give justice to the aggrieved *bona fide* victims of domestic violence, however, it cannot be ignored that in the peculiar facts of the present case, the very foundation of the cohabitation is marred with fraud played by Respondent No.2.

26. It is settled law that fraud vitiates every solemn act and no party can be permitted to gain any advantage out of their own wrong. As noted above, in the present case, it has been found the relationship between Petitioner No. 1 and Respondent No. 2 was on the basis of fraud and by concealment of a material fact. Although it appears from the judgment dated 05.11.2024 that the parties stayed together for a brief period till 06.12.2017 after discovery of fraud on 16.11.2017, mere cohabitation for a couple days subsequently, without any mention of the discovery of the said aspect in the complaint, is insufficient to conclude that there was a valid domestic relationship between the parties.

27. Considering that the cohabitation between the parties was premised on fraud played by Respondent No.2, she cannot be allowed to take any advantage of the domestic relationship that was borne out of such a fraud. If such a proposition is accepted, Respondent No.2 will be able to derive the benefit of a beneficial



legislation meant for victims of domestic abuse, even though, the very fulcrum of the relationship between the parties was premised on concealments.

28. It is pointed out that the complaint was filed shortly after Petitioner No.1 had filed the petition seeking annulment of the marriage of the parties. Although certain vague allegations of harassment and cruelty have been made in the complaint, in the peculiar facts of the present case, considering that the very foundation of the relationship has been vitiated, in the opinion of this Court, continuation of proceedings would be a travesty of justice as there was no voluntary domestic relationship between the parties.

29. One of the requisites to constitute domestic relationship is existence of a relationship where the parties are related through marriage or a relationship in nature of marriage. In the present case, as discussed above, the consent of Petitioner No.1 in regard to being in a relationship of such a nature was induced by fraud. To confer any benefit to Respondent No.2 in such a case would unjustly prejudice the petitioners. Thus, in view of the aforesaid discussion, this Court is of the opinion that proceedings under Section 12 of the DV Act as instituted by Respondent No. 2 against the petitioners cannot proceed at this stage.

30. In view of the above, the present petition is allowed and the proceedings in Complaint Case No. 1204/2018 under Section 12 of the DV Act are quashed. Pending application(s), if any, also stand disposed of.

31. It is made clear that if subsequently, the judgment dated 05.11.2024 declaring the marriage between the parties to be a nullity is set aside, Respondent No.2 will be at liberty to institute

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appropriate proceedings in accordance with law.

AUGUST 8, 2025

AMIT MAHAJAN, J