

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
REVISION APPLICATION NO. 318 OF 2024

Suresh N. Rughani ...Applicant
V/s.
1. Kirti V. Rughani
2. Vikram R. Rughani
3. Ramesh N. Rughani
4. Geeta R. Rughani
5. The State of Maharashtra ...Respondents.

WITH
INTERIM APPLICATION NO. 1406 OF 2025

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Mr. Suresh Rughani, the Applicant in person is present.
Mr. Vishal V. Rankhambe a/w. Ms Aparna V. Rankhambe,
Mr. Chaitanya M. Bagul and Mr. Afsar Ansir for the Respondent- Kirti
Rughani.
Mr. Ritesh Thobde (through VC), Appointed through Court, Amicus
Curiae.
Mr. V.N. Sagare, APP for the Respondent/State. .

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CORAM : N.R. BORKAR, J.
DATE : 23.04.2026.

P.C. :

1. This revision application takes exception to the order dated 28th October 2023 passed by the Additional Sessions Judge, Gr. Bombay in Appeal No. 672 of 2022. By the order impugned the learned Additional Sessions Judge has dismissed the appeal filed by the present Petitioner against the order passed by the learned Magistrate rejecting the application filed by the petitioner for discharge. The said application for discharge was filed in the proceedings filed by respondent No. 1 under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short D.V. Act).

2. I have heard the applicant in person, the learned counsel Mr. Rankhambe for the contesting respondent and the learned counsel Mr. Thobde, appointed to represent the applicant.

3. Learned counsel for the contesting respondent submits that there is no provision for discharge under the DV Act. It is submitted that even otherwise the present revision under Section 397 read with 401 of the Cr.P.C. is not maintainable in view of the decision of the Hon'ble Supreme Court in the case of ***Shaurabh Kumar Tripathi vs. Vidhi Rawal***¹.

4. On the other hand, the applicant submits that the present revision application is very much maintainable. In support of the said submission, he has relied upon various judgments of the Hon'ble Supreme Court and the High Courts.

5. My attention is also drawn to the judgment and order passed by this Court dated 1st February 2024 in ***Criminal Revision Application No. 270 of 2023***² to submit that the revision is maintainable.

6. The Hon'ble Supreme Court in *Shaurabh Kumar Tripathi (supra)*, has observed thus:

"28.1 Thus, there is no doubt that, notwithstanding the penal provisions in the form of Sections 31 and 33 of Chapter V, the proceedings before the Magistrate under the DV Act, 2005, are predominantly of a civil nature.

29. Under the scheme of the DV Act, 2005, the reliefs which are provided in Sections 18 to 23 can be granted on

1 Criminal Appeal No.2688 of 2025 and 2689 of 2025 decided on 19th May 2025

2 Rashmi Mehrotra and anr vs. Manvi Sheth and anr.

an application made by an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person under Sub-section (1) of Section 12. Thus, when the question of quashing proceedings under the DV Act, 2005 pending before the learned Magistrate arises, it is for quashing of an application under Section 12(1) of the DV Act. We are examining the issue of jurisdiction of the High Court under Section 482 of the CrPC or Section 528 of the BNSS in the context of quashing the proceedings initiated on an application made under Section 12(1). We have already held that an application under Sub-section (1) of Section 12 is completely different from a complaint under Section 200 of the CrPC (Section 223 of the BNSS).

30. Now, we turn to Section 482 of CrPC, which reads thus:
*“482. Saving of inherent powers of High Court.—
 Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”*

30.1 The word ‘Court’ referred to in Section 482 is obviously a Criminal Court within the meaning of Section 6 of CrPC which includes a Court of a Judicial Magistrate or Metropolitan Magistrate.

31. *There are two parts of Section 482. Both parts save the inherent powers of the High Court. The first part is applicable where the power is exercised to make such orders as may be necessary to give effect to any order under ‘this Code’. When a notice is issued on an application under Section 12(1), the learned Magistrate does not pass any order under the CrPC. When orders granting any of the reliefs under Sections 18 to 23 are passed, the orders of the learned Magistrate are not under the CrPC. Therefore, the first part of Section 482 cannot apply to proceedings under Section 12(1) of the DV Act, 2005.*

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.

7. The Hon'ble Supreme Court has held that the proceedings under the D.V. Act, are predominantly of a civil nature. It is further held that the application under Section 12(1) of the DV Act is completely different from a complaint under Section 200 of Cr.P.C. (Section 223 of the BNSS) and when a notice issued on an application under Section 12(1), the learned Magistrate does not pass any order under the Cr.P.C. It is held that when the orders granting any of the reliefs under Sections 18 to 23 are passed, the orders of the learned Magistrate are not under the Cr.P.C.

8. The present Revision Application therefore under Section 397 read with 401 of the Cr.P.C. can not be entertained against the order passed by the learned Magistrate under the DV Act. The revision is dismissed as not maintainable. However, it would be open to the applicant to file an application under Section 482 of Cr.P.C.

9. Pending Interim Application, if any, shall stand disposed of.

[N.R.BORKAR, J.]