



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION APPLICATION NO. 188 OF 2025

APPLICANT
ORIGINAL
RESPONDENT

:- **Anandrao son Marotirao Kharabe,**
Aged about 81 years, Occupation:
Nil, Resident of Rajagopalachari
Ward, Bhandara, Tahsil and District
Bhandara. Presently, residing in C/o
Rohit Anandrao Kharabe, Tiara, C-
Building, 8th Floor, Tiara Wakad,
Plot No. 802, S. No. 128/5, Shivraj
Nagar Road, Behind Sayaji Hotel,
Shakarkalat Nagar, Wakad,
Pune-411057.

..VERSUS..

NON-
APPLICANT/
ORIGINAL
APPLICANT

:- **Madhuri wife of Anandrao Kharabe,**
Aged about 74 years, Occupation:
Nil, resident of in C/o Mr. Manohar
Ghogle, Gopal Nagar, Nagpur, Tahsil
and District Nagpur.

Mr Yash Maheshwari, counsel with Mr. Shraddhanand Bhutada,
counsel for applicant.

Mr. Abhinav Saxena, counsel for non-applicant.

CORAM : **URMILA JOSHI PHALKE, J.**

DATE : **26/03/2026**

ORAL JUDGMENT :

1. Heard.
2. **ADMIT.** Heard finally with the consent of learned counsel for the applicant and learned counsel for the non-applicant.
3. By this application, the applicant is seeking quashing and setting aside of the impugned judgment dated 30/09/2025 passed by the learned Additional Sessions Judge, Bhandara, as well as the order dated 12/02/2024 passed by the learned Judicial Magistrate First Class, Court No.1, Bhandara, in Misc. Criminal Application No. 18 of 2023, whereby the application of the present applicant for dismissal of the case was rejected, and the order of Appellate Court i.e. the Additional Sessions Judge, Bhandara, dismissing the appeal.
4. The non-applicant had initiated the proceedings against the present applicant seeking, claiming an order for residential accommodation, and alternatively, an amount of Rs. 7,000/- towards house rent for her separate residence, in addition to the maintenance.
5. As per the contention of the non-applicant, her marriage with the present applicant was solemnized on 12/02/1969. Out of the said wedlock, two sons were born, who are now residing separately with their families. The present applicant is a practising lawyer. After some time of marriage, relations between the applicant and the respondent became strained due to differences of opinion. Therefore, it is

alleged that the applicant subjected the respondent to ill-treatment, torture, and neglect, making it impossible for her to continue residing in the matrimonial home, and she therefore left the matrimonial house.

5.1 Thereafter, she approached to the judicial Magistrate First Class by filing an application under Section 125 of Cr.P.C. for grant of maintenance by which the maintenance at the rate of Rs. 6,000/- was granted to her. Thereafter, she filed the application bearing Misc. Criminal Application No. 18/2023, contending that she was subjected for the domestic violence at the hands of present applicant. Therefore, she left the matrimonial house, after that the present applicant has not made any provision for her residence and also not made any provision for her shelter, thereby depriving her of economic sources. Therefore, she filed an application under Sections 12, 17 and 19 of the Protection of Woman from Domestic Violence Act for various reliefs including residence order.

6. The said application was strongly opposed by the present applicant on the ground that there is no whisper regarding any offer made by him to provide residence, nor any refusal thereof by the non-applicant. It is contended that, there is no deprivation of economic or financial resources to which the non-applicant is entitled under any law or custom. Therefore, she cannot file an application directly before the Court seeking such reliefs, and for this ground, it is contended that the application filed by the non-applicant deserves to be

rejected, and the entire proceedings deserves to be quashed and set aside.

7. Heard learned counsel for the applicant, who submitted that the definition of economic abuse which is given under section 3(iv) which includes;

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

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

c) prohibition or restriction to continue access to resources or facilities which the aggrieved person is

entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

8. He submitted that Explanation II states that for the purpose of determining whether any act, omission, commission or conduct of the non-applicant constitutes domestic violence under this section, the overall facts and circumstances of the case shall be taken into consideration.

9. Thus, he submitted that in view of the Section 3(iv) to ascertain whether there is an economic abuses or not there has to be offered by the non-applicant which is to be refused by the present applicant. In the present case, no such facts are narrated by the present non-applicant, and there is no refusal by the present applicant as to the offer and therefore, there is no economic abuse and therefore, the application is not maintainable.

10. In support of his contention, learned counsel for the applicant placed reliance on various decisions which is as under :-

a] Sunil Gangadhar Kedam and others Vs Jayshri Sunil Kadam and another reported in 2023 SCC OnLine Bom 656;

b] Shyamlal Devda and others Vs Parimala reported in (2020) 3 SCC 14;

c] State of M.P. and others Vs Indore Iron and Steel Mills Pvt. Ltd. reported in (1998) 6 SCC 416;

***d] Prakash Kumar Singhee Vs Amrapali Singhee
reported in 2018 SCC OnLine Bom 1197;***

11. Learned counsel for the applicant submitted that, the act has been enacted to provide effective protection of rights of women guaranteed under the Constitution of India, being victims of violence of any kind occurring in the family and the provisions therein would have to be constructed in the backdrop of the object, with which is the statute in acted. To claim the relief there has to be domestic violence at the hands of the present applicant, which is absent in the present case. There is no single whisper regarding the domestic violence at the hands of the present applicant and therefore, she is not entitled for any relief under the provisions of protection of woman from Domestic Violence Act and thereby application deserves to be allowed by quashing the entire proceeding.

12. Per contra, learned counsel for the non-applicant submitted that the basic object of the Protection of Women Domestic Violence 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 woman to reside in their matrimonial home or shared household and therefore, there is a provision for passing the residence order under Section 19. The present non-applicant claim the resident order. He submitted that therefore the opportunities is to be granted to the present

non-applicant to prove whether she was subjected for domestic violence or not. In view of that, application deserves to be rejected.

13. After hearing both sides and on perusal of the entire record, it reveals that there is no dispute regarding the relationship between the parties as husband and wife. The non-applicant has filed an application for various reliefs under Sections 12, 17 and 19 of the Protection of Woman from Domestic Violence Act, 2005.

14. Before entering into the merits of the case, it is necessary to see the object of the Act. As observed earlier, the object of the act is to protect the woman's from the Atrocities at the hands of the family members and to entitle her for various reliefs under the said provisions. The basic object of the Domestic Violence Act is to protect woman from being victims of domestic violence and also to prevent occurrence of domestic violence in the house. It seeks to protect to right of woman to reside in their matrimonial home in shared home.

15. The definition of domestic relationship which is defined in Section 2(f) which deals with 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;.

16. The definition of shared household is also given in

the Section 2(s) which 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 household 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 shared household;

17. Thus, the definitions given under Section 2 defines the various expressions occurring in the proposed legislation. The definition of aggrieved person, domestic relationship, domestic violence, monetary relief, protection officer, protection order, share household are some of them as per the proposed legislation any woman who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to act of domestic violence by the respondent is an aggrieved person. The expression “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. As far as the present applicant and the non-applicant are concerned,

there is no dispute that the when living together as husband and wife i.e. by way of marriage.

18. The Section 3 of the said Act defines the domestic violence which states that For the purpose of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

19. Thus, this clause defines the expression of domestic violence which any means any act commission or conduct of the respondent shall amount to domestic violence in certain circumstances, it includes causing physical abuse, sexual abuses, verbal and economical or economic abuse which are also explained in the calque. In determining whether any act omission, commission, conduct of the respondent constitutes domestic violence, the overall facts and circumstances of the case shall be the guiding factor.

20. In the light of above legal provision, it has to be seen whether the respondent has made out a prima-facie case for the domestic violence. On perusal of her applications, she is specifically stated that the relationship between her and the applicant were not cordial. There were difference of opinion, in the meantime, she was tortured by the present applicant by giving ill-treatment and neglecting her and therefore, it was not possible for her to stay with the present applicant in one house and therefore, she left the matrimonial house, and started residing separately. She specifically stated that she was constrained to reside separately along with both sons, but non-applicant has taken custody of elder son from the court and hence only younger son Satish is residing along with him. Admittedly, there is nothing on record to show that the present applicant has made any provision for their residence, who is under obligation to do the same. As far as the aspect of the domestic violence is concerned, opportunity is required to be given to the respondent to prove the same. Whether she is deprived from the any economic financial resources to which she is entitled any law or custom which is also required to be proved on the basis of the evidence.

21. The definition of economical abuse is given under Section 3(iv) which is already reproduced in earlier part of the judgment. Thus, in view of the said provisions under Section 17 she has right to reside in shared household, under Section 18 she can seek a protection order from the magistrate. In view of Section 19, she can claim a residence

order from the magistrate, and in view of Section 20, she can claim monetary reliefs. In view of Section 12, she can file an application for the said reliefs and in view of that she has filed the said application for getting a residence order.

22. As also observed by the Hon'ble Apex Court in the case ***Shaurabh Kumar Tripath Vs Vidhi Rawal reported in 2025 SCC Online SC 1158***, wherein the Hon'ble Apex Court wherein the Hon'ble Apex Court has considered the scheme of the domestic violence act and held that Under the scheme of the Domestic Violence Act, 2005, the reliefs which are provided in Sections 18 to 23 can be granted on 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 Domestic Violence Act, 2005 pending under the learned Magistrate arises, it is for quashing of an application under Section 12(1) of the Domestic Violence 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).

23. Thereafter, the Hon'ble Apex Court has considered whether the application under Section 12 can be quash in

view of the jurisdiction under section 482 of Cr.P. C and held that the 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.

24. In view of the above observation, there is no dispute as far as the legal position is concerned, that in view of Section 482 of Cr.P.C. or 528 of BNSS, the High Court can exercise the jurisdiction to quash the proceedings which is filed under the Domestic Violence Act.

25. Now, coming to the objects and reasons of the Domestic Violence Act, 2005, the basic object of the said Act 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 order towards share household. 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. 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 respondent cannot be punished but some orders regarding the monetary reliefs or the residence order can be passed against the respondent.

26. While considering this aspect the Hon'ble Apex Court observed in the said judgment that 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 Domestic Violence 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 Domestic Violence Act, 2005, the very object of enacting the Act will be defeated.

27. In view of the above observation of the Hon'ble Apex Court, admittedly in the present case, the respondent has alleged that she was subject for the tortured when she was residing along with the accused. Whether it would cover under the Domestic Violence Act or not is a matter of evidence, at this stage the pleading of the present respondent sufficient to show that as she was subjected for the domestic violence at the hands of the present applicant and therefore, she approached to the Magistrate for seeking various reliefs and therefore, opportunities is required to be given to establish the said facts by adducing the evidence. At this stage, it would not be just and proper considering the object of the Domestic Violence Act to quash the FIR. In view of that, application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

- a] The criminal revision application being devoid of merits and liable to be **dismissed**.
- b] Learned counsel for the applicant prays for stay to the implementation and for continuation of the stay. However, as I have already observed that the opportunities to be granted to the

applicant to establish her contentions regarding the Domestic Violence Act and her rights. No case is made out for grant of stay. In view of that, prayer is rejected.

28. Pending application(s), if any, stands **disposed of**.

(URMILA JOSHI PHALKE, J.)