



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

**CRIMINAL APPLICATION (APL) NO. 1181 OF 2025**

1. **Humeshwari d/o Dattatraya Nipane** **APPLICANT**  
Aged about 40 years,  
Occupation : Nil, R/o  
Flat No.5, Kanhaiya Arcade-2  
Vyankatesh City-2, Near Swami  
Samarth Mandir, Besa, Nagpur

**// V E R S U S //**

1. **Uma wd/o Dattatraya Nipane,** **NON-APPLICANT**  
Aged about 65 years,  
Occ- Nil, R/o, C/o Punyayi  
Wrudhasram, Maharana Colony,  
Near Abhay Nagar,  
Rameshwari Ringh Road, Nagpur,  
Presently residing at C/o Chetan  
Kamble, Flat No.303, 3<sup>rd</sup> floor,  
Maintry Apartment, Near LN Club  
Restro, Besa Ghogli Road,  
Ghogli-Nagpur (Urban)

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Mr. Chintan Tamhane, Advocate h/f Ms Radha Mishra, Advocate (appointed) for  
the applicant.

Ms Gulafsha Ansari, Advocate for non-applicant.  
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**CORAM : URMILA JOSHI PHALKE, J.**

**DATED : 18.02.2026**

**ORAL JUDGMENT :**

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. The present application is preferred by the applicant under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (for short, 'BNS') for quashing and setting aside the proceeding filed under Sections 12, 18, 19, 20, 22 and 23 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the D.V. Act') bearing Cri. MA No.2809/2025 pending before learned 23<sup>rd</sup> Joint Civil Judge, Senior Division, Nagpur.

4. The brief facts which are necessary for the disposal of the present application are as under:-

Applicant is the real daughter of the non-applicant and applicant has lost her father and non-applicant is rested on leading her life on the pension which she derived on the death of her husband. As per the allegations in application filed by the non-applicant in Criminal MA No.2809/2025 before Special Court, Nagpur that present applicant is the real daughter of non-applicant and applicant is having good qualification i.e. MSc Biotechnology and getting handsome income therefrom and

separately residing on the above mentioned address. Initially she was residing along with present non-applicant and was harassing her on various reasons as well as abusing her and assaulting her. Regarding abuses and assaults she has filed various complaints with the police on the basis of which NCRreports are lodged against present applicants. Thus, it was contended that present applicant always in habit to pick up the quarrels with the family members like brother and sister without any reason and also harassing the mother, who is 65 years old i.e. non-applicant. Due to harassing at the hands of present applicant, she approached to the Court with the application for getting the protection orders from the Court.

5. Trial Court has taken cognizance of the said application and issued the summons against the present applicant therefore, she approached to this Court with contention that initially she was living in Mumbai and Bangalore sometimes for work and used to live in Nagpur occasionally. Her father has flat at Besa Nagpur and one home at Bhandara. Therefore, whenever applicant came to Nagpur from Mumbai she used to stay at her own house at Nagpur alongwith the brother. But her brother has

objected her stay in the said house and used to beat her. Therefore, she has approached to the Police Station and lodged various complaints. She further alleged that present non-applicant also used to raise quarrel with her, assaulted her and abused her. Due to the ill treatment and harassment at the hands of the present non-applicant, she constrained to leave the house and she is residing in different house. Thus, there is harassment and domestic violence at the hands of the present non-applicant only. As far as allegation in the application is concerned, she contended that on the basis of the general omnibus and vague allegations the application is filed and therefore, the entire proceeding deserves to be quashed.

6. Heard learned counsel for the applicant she reiterated the said contentions and submitted that in view of the definition of domestic violence when any person 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 then the domestic violence is made out. As far as the application filed by the non-applicant is concerned wherein

nowhere it is specifically stated that she was assaulted or abused by the present applicant and therefore, on the basis of vague, general and omnibus allegations this FIR came to be filed and on that ground itself the application deserves to be dismissed and therefore, it is required to be quashed.

7. Per contra learned counsel for the non-applicant submitted that non-applicant is old lady of 65 years. Present applicant used to abuse her and therefore she has already lodged complaint with the police on the basis of which NCR report is already registered against the present applicant on 20.08.2023 regarding the incident dated 13.08.2023 which sufficiently shows that present non-applicant was subjected for the ill treatment or domestic violence at the hands of the present applicant. She has also invited my attention towards the earlier NCR which came to be filed against the present applicant on the basis of the report lodged by non-applicant on dated 22.11.2023. Thus, she submitted that two incidents are sufficient to show that there was domestic violence at the hands of the present applicant and therefore, prima-face case is made out against the present applicant. In view of that the application deserves to be rejected.

8. On hearing both the sides and on perusal of the entire record it reveals that applicant as well as non-applicant both have filed criminal complaints against each other and similar types of the allegations are levelled against each other. It is apparent from the record that present applicant has also filed complaint against non-applicant as well as her brother on the basis of which NCRs are registered against the non-applicant and son of non-applicant. At the same time on the basis of the complaint lodged by non-applicant the NCRs are registered against the present applicant also. Thus, it reveals that the relationship between the applicant and non-applicant, who are the mother and daughter appears to be strange. For the purpose of constituting domestic violence if requires to be taken into consideration, the definition of Domestic Violence given under Section 3 of Protection of Women From Domestic Violence Act of 2005, which reads as under:-

—For the purposes 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.

Explanation I.—For the purposes of this section,— (i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force; (ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman; (iii) “verbal and emotional abuse” includes— (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested; (iv) “economic abuse” 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 4 to, house hold 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 house hold 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 continued 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.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent

constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.

9. Thus, the clause defines the expression domestic violence means any act omission or commission or conduct of the respondent shall amount to domestic violence in certain circumstances. It includes causing physical abuse, sexual abuse, verbal abuse and emotional, economic abuse, which are also explained in the clause. In determining whether any act omission, commission or conduct of the respondent constitute domestic violence the overall facts and circumstances of the case shall be a guiding factor. Section 3 of the Act defines domestic violence. It is clear that such violence is gender neutral. It is also clear that physical abuse, verbal abuse, emotional abuse and economic abuse can all be by woman against another woman. Even sexual abuse may in a given facts circumstances (b) by women on another. Section (3) therefore in tune with the general object of the act seeks to outlog domestic violence of any kind against the women and it gender and neutral. When one goes to the remedies that the act provides things becomes unclear Section 17(2) of the Act makes it clear that the aggrieved person cannot

not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law. If respondent is to be read as a only adult men person, it is clear that women who evict or exclude the aggrieved person or are not within its coverage and if that is so the object of the act can very easily be defeated by adult men person not standing in the forefront but putting forward female persons who can therefore, evict or exclude the aggrieved person from the share household. Thus, in the definition of the respondent the non-applicant is also included.

10. Now coming to the allegations levelled against the present applicant admittedly the non-applicant has filed the complaint wherein she has specifically stated that on various occasions the present applicant subjected her for the abuses as well as for physical assault also. While considering the definition under the Domestic Violence Act when any act or omission on the part of the respondent harms, or injures or endangers the health, safety, life, limb or well being of that person that is said to have committed domestic violence. The NC report which is lodged by the non-applicant before the police sufficiently shows that the

allegation levelled against the present applicant is that she has assaulted the non-applicant, not only assaulted but abused her also. The allegations in the NCR report dated 29.08.25 regarding the NCR report dated 28.06.2025 specifically regarding the incident dated 28.06.2025 shows that there was allegation of manhandling abuses against the present applicant. There was previous complaint also and on the basis of the previous complaint one NCR was registered against the present applicant. At this stage these allegations are sufficient to show that the relationship between the applicant and non-applicant who are mother and daughter are strange. Against each other they have filed complaint claiming that they have assaulted abused each other. The non-applicant is 65 years old women to whom the allegations levelled by her are sufficient to infer that there was harm and injury or endanger to her health safety life and limb and therefore, allegation of domestic violence is substantiated by the complaint registered by the non-applicant and therefore, prima-facie case is made out against the present applicant. At this stage, it would not be proper to exercise the jurisdiction under Section 482 of the Code of Criminal Procedure to quash the said complaint. In view of that the application deserves to be rejected.

12. Accordingly, I proceed to pass following order:-

The criminal application is rejected.

13. The fees of the appointed counsel be quantified as per  
Rules.

Criminal Application stands disposed of .

( URMILA JOSHI PHALKE, J.)

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