

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

CRIMINAL APPLICATION (APL) NO. 1491 OF 2025

Shri Akshay s/o Vasantrao Parate

.Vs.

Sau. Prajakta w/o Akshay Parate

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr PM. Dahake, Advocate for the applicant

CORAM : URMILA JOSHI PHALKE

DATED : 09.02.2026

The present application is preferred by the applicant for quashing of the criminal case pending before the Court of Judicial Magistrate First Class at Mohadi District Bhandar vide complaint No.9/2023 under the provisions of the Protection of Women From Domestic Violence Act, 2005 (for short, 'the D.V. Act, 2005).

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

Applicant and non-applicant are husband and wife. Their marriage was performed on 03.03.2020. After marriage she resumed the cohabitation at the house of the present applicant. As per her allegations her father has incurred the expenses for the said marriage and in the first

night of marriage itself present applicant informed her that there is possibility of spy camera. He refused to come to close and have physical relationship with her and did some formal conversation and also disclosed to her that he is not interested to maintain physical relationship with her. Thereafter eight days also similar incident has taken place with her. It is further alleged that he started quarreles on pity grounds and misbehaved with her. On 17.06.2020 her birthday was there and therefore, she was having desire to celebrate it along with her parents but present applicant has also denied to provide her expenses to celebrate the said birth day and also she was abused in filthy language. Thus, it is the sum and substance of her contention that for one or other reasons she was ill treated by the present appliant and therefore, she filed application for maintenance under Section 125 of the Cr.PC. as well as the application for various relief under Sections 12, 18 and 20 of the D.V. Act, 2005.

3. Being aggrieved with the issuance of process in the said application application is preferred by the applicant-husband on the ground that as the applicant-husband has filed an application for dissolution of marriage and therefore, after thought this application under the provisions of the D.V. Act came to be filed only to give counter blast to the proceeding filed by the present applicant on the basis of general vague and omnibus allegations. He submitted that as

far as domestic violence is concerned, no specific instances are narrated by non-applicant to attract the definition of domestic violence. In view of that, the application deserves to be allowed.

4. Heard learned counsel for the applicant. He reiterated the said contentions and invited my attention towards the proceedings under the provisions of the Domestic Violence Act. As far as 125 of the Cr.P.C, he submitted that in the application filed by her under the provisions of 125 of the Cr.P.C. different allegations are made whereas in the proceeding under the Domestic Violence Act with the different allegations application came to be filed. He further submitted that both the applications show that general, omnibus and vague allegations are levelled against present applicant and therefore, application deserves to be allowed. In support of his contention he placed reliance on the decision on the Hon'ble Apex Court in the case of ***Rekha Sharad Ushir vs. Saptashrunji Mahila Nagari Sahkari Patsanstha Ltd.*** reported in 2025 Online SC 641, ***Saurabh Kumar Tripathi vs. Vidhi Rawal*** reported in ***2025 SCC Online SC 1158***.

5. Despite the service of notice, none appears for the non-applicant No.2.

6. Before entering into the merits of the case, it is necessary to consider some of the definition given under the Domestic Violence Act. The section 3 of the DV Act states regarding the definition of the domestic violence.

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 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.

Even “domestic relationship” have been defined under clause (f) of Section 2 of the D.V. Act, 2005 which reads as under:-

“(f) “ 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 marriages, adoption or are family members living together as a joint family.”

7. Chapter 4 of D.V. Act, 2005 lays down what kind of reliefs can be granted to a person aggrieved who has been subjected to any act of domestic violence. There are different categories of reliefs which can be granted under the D.V. Act, 2005. These reliefs can be sought either by making an application under Section 12 of the D.V. Act, 2005 or making an application in pending legal proceedings affected aggrieved person before the Civil Court, Family Court or Criminal Court. The reliefs are provided. The monetary reliefs are given under Section 20 of the D.V. Act, 2005 which states that While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to, (a) the loss of earnings; (b) the medical

expenses;(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

8. After going through the entire provisions given under the D.V. Act, 2005 the scheme of the D.V. Act and particularly, section 12 which deals with a complaint wherein the applicant or the wife alleges about the ill treatment which she has received in a matrimonial house by the family members of the husband. In case of application under Section 12 of the D.V. Act, 2005 as provided in subsection 4 thereof the learned Magistrate is duty bound to fix the date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the Court.

9. Section 18 and 20 deals with various reliefs given under the provisions of D.V. Act, 2005.

The physical abuse defined under Section 3 of the D.V. Act “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. It also defines sexual abuse includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman. The 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 or (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

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 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.

10. Thus, section 3 defines the expression domestic violence any act, omission or commission or conduct of the respondent shall constitute domestic violence in certain circumstances. It includes causing physical abuse, sexual abuse, verbal, emotional and economic abuse which are also explained. In determining whether any act, omission or

commission or conduct of the respondent constitute domestic violence in overall circumstances of the case shall be a guiding factor.

11. In view of the above, definition given as far as the domestic violence is concerned here in the present case the allegation is that on the first night of the marriage itself the present applicant has disclosed that he would not keep physical relationship with her and he is not interested with her. Admittedly this would come under the emotional abuse. As the victim came under the expectation at the matrimonial house and when that expectation is destroyed by the present applicant definitely it would come under the emotional abuse. As far as other allegation that he was not providing the monetary assistance to her to fulfill her expectations also would come under the economical abuse. Thus, considering the allegation at the initial stage of the application admittedly the opportunity is to be granted to the non applicant to prove the said allegations before the trial Court. This is not a fit case wherein the power to quashing of the proceeding can be exercised considering the nature of the allegation leveled against the present applicant.

12. In view of that application deserves to be rejected.

13. Hence, application is rejected.

Pending applications if any, stand disposed of.

[URMILA JOSHI PHALKE, J.]