



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

CRIMINAL APPLICATION (APL) NO. 1583 OF 2025

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|-----------|--|--------------------------|
| 1. | Balwinder Singh Manjit Singh,
Aged about 45 years,
Occupation.Unemployed,
117, Sri Sai Acropolis
Apartment Hosa Road,
Bangalore-560100 | <u>APPLICANTS</u> |
| 2. | Amarjit Kaur Manjit Singh,
(Mother of applicant No.1)
Aged 70n years, Occ. Housewife,
133/1A, P.N. Malia Road,
Sisubagan Raniganj
(West Bengal) 713347 | |
| 3. | Manjit Singh Sachdeva
(Father of Applicant No.1)
Age 73, Occu. Business
133/1A, P.N. Malia Road,
Sisubagan Raniganj
(West Bengal) 713347 | |
| 4. | Manjit Singh Sachdeva
(Father of Applicant No.1)
Age 73, Occu. Business
133/1A, P.N. Malia Road,
Sisubagan Raniganj
(West Bengal) 713347 | |
| 5. | Preetkamal Kaur Damanjit Arora
(Sister of applicant No.1)
Age 39 years,
Occu. Housewife
R/o Suncity Girila Apartment,
Flat No.1084 Sarjapur Road,
Bangalore | |
| 6. | Damanjit Harbindarsingh Arora,
(Brother-in-law of applicant No.1)
Age 41 years, Occ. Job,
R/o Suncity Girila Apartment | |

- Flat No.1084 Sarjapur Road,
Bangalore
7. **Harmeet Kaur Gurpitsingh Saluja**
(Sister of Applicant No.1)
Age 43 years, Occu. Housewife,
R/o H.No.18/1, Shivaji Marg,
Dayalband, Near Sangeet School,
Bilaspur (Ch.G.)
 8. **Harmeet Kaur Gurpitsingh Saluja**
(Sister of Applicant No.1)
Age 43 years, Occu. Housewife,
R/o H.No.18/1, Shivaji Marg,
Dayalband, Near Sangeet School,
Bilaspur (Ch.G.)
 9. **Gurpreet Singh Saluja**
(Brother-in-law of applicant No.1)
Age 44, Occ. Business,
R/o H.No.18/1, Shivaji Marg,
Dayalband, near Sangeet School
Bilaspur (Ch.G.)

// V E R S U S //

1. **Kawaljit Kaur Balwinder Singh**
Age 41 years, Occ. Housewife,
Flat No.101, Icon Palace,
Shankar Nagar Road, Opposite
Nagalkar Nursing Home and
Polyclinic, Near Hariganga Oil
Mill Amravati 444606
2. **Arshbir Balwinder Singh**
On behalf of non-applicant No.1
Mother Kawaljit Kaur Balbinder
Singh, Age 10 years, R/o Icon
Palace Shankar Nagar Road,
Opposite Nagalkar Nursing Home
And Polyclinic, Near Hariganga
Oil Mill, Amravati- 444606

NON-APPLICANTS

Mr. Apurv De, Advocate with Ms Vaishnavi Ramidhami, Advocate
for the applicants.

Mrs. Renuka Sirpurkar, Advocate for non-applicants.

CORAM : URMILA JOSHI PHALKE, J.

JUDGMENT RESERVED ON:- 23.02.2026.

JUDGEMENT PRONOUNCED ON:-05.03.2026

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 applicants
for quashing of D.V. Complaint Case No.51/2021 dated
09.02.2021 against present applicants pending before Judicial
Magistrate First Class Court No.7-Amravati.

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

On 31.12.2010 the marriage of applicant No.1 and non-applicant No.1 was solemnized at Raniganj, West Bengal. After marriage non-applicant No.1 started residing at Bangaluru with the applicant No.1. From the said wedlock, non-applicant No.2 was born on 23.06.2015 and was diagnosed with Cerebral Palsy. Non-applicant No.2 underwent therapies in Bangaluru during period of 2016-2020. When the applicant No.1 and non-applicant No.1 were residing together there was no cordial relations between them. Therefore, non-applicant No.1 left the matrimonial house. The applicant No.1 filed petition for dissolution of marriage before Family Court at Bangaluru. At the same time, non-applicant No.1 along with non-applicant No.2 are relocated to Amravati from her matrimonial home. It is alleged against non-applicant No.1 that while leaving the house of the applicant No.1 she sold and removed major household articles including furniture appliances and therefore, police complaint was registered against her on 04.01.2021. She has also instituted proceeding under Section 12 of Protection of Women From Domestic Violence Act, 2005 by filing an application bearing No.51/2021. She has also filed petition under Section 9 of the Hindu Marriage Act on 18.03.2021. On 01.09.2021 applicant

No.1 shifted to Amravati to reside with non-applicants. On 18.12.2021 they arrived at settlement and such settlement was filed before Family Court Amravati and the Court dismissed petition which is filed under Section 9 of the Hindu Marriage Act. Thereafter the applicant No.1 and non-applicants resided together at Prayagraj for treatment of non-applicant No.2. On 02.08.2022 applicant No.1 was compelled to vacate the sharedhouse at Prayagraj by non-applicant No.1. On 07.03.2022 the transfer petition was filed by non-applicant No.1 to transfer proceeding which is filed by the applicant No.1 for dissolution of marriage from Bangaluru to Amravati. However, the said petition was dismissed on account of settlement between the parties. Thereafter, on 29.01.2024 the custody application was filed by applicant No.1 which was also dismissed. After settlement non-applicants resided along with applicant No.1 approximately for one year. As per the allegations in view of the settlement non-applicant No.1, she agreed and accepted to withdraw all the petitions against applicant No.1. She has not filed withdrawal pursis to withdraw the petition for Domestic Violence Act and she proceeded with the said proceeding under the Domestic Violence Act wherein learned Magistrate has granted interim maintenance

of Rs.60,000/- p.m. to non-applicant No.1 and Rs.70,000/- p.m. to non-applicant No.2 from the date of filing of the present application by order dated 14.05.2024.

5. Being aggrieved and dissatisfied with the same, the present application is preferred by the applicants for quashing of the D.V. proceeding.

6. Heard learned counsel for the applicants who submitted that in the interest of the better future for the child who is diagnosed with Cerebral Palsy the parties made sincere efforts to reconcile and to maintain marital relationship. They both underwent marriage counsellor. These efforts went invain and resulted in frequent disputes which adversely affected child phycological well being. Subsequent to the counselling in 2019 the conduct of non-applicant No.1 towards applicant No.1 became hostile. She neglected her matrimonial and household responsibilities consistently created disturbances in the matrimonial home and thereby causing professional and personal difficulties to the applicant No.1. Non-applicant No.1 further made an attempt to isolate applicant No.1 by objecting to his attraction

with family and refusing to accompany him to his parental home at Raniganj. Therefore, applicant No.1 constrained to file divorce petition before the Family Court at Bengaluru. It is contended that he has never evicted or removed non-applicants from shared household but non-applicant No.1 sold and removed all household articles and caused damage to the rented premises. These acts were committed by her in absence of the applicant No.1. Regarding the same applicant No.1 has lodged report. Subsequent to her relocation to Amravati from her matrimonial home in Bengaluru she instituted the proceeding under Section 12 of the Protection of Women From Domestic Violence Act on the basis of fake and baseless allegations as well as petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. It is submitted that to restore matrimonial relationship applicant No.1 shifted to Amravati to reside with non-applicants and started working from home. During that period they reached at compromise and agreed to withdraw pending matrimonial cases. Settlement was filed before Family Court Amravati and the Family Court by order dated 18.12.2021 dismissed the petition for conjugal rights and subsequently the divorce case filed by applicant No.1 in Bengaluru. The said compromise was also

recorded before the Supreme Court wherein the application for transfer of the proceeding which was filed in Bangaluru was pending. Thus, non-applicant No.1 agreed to withdraw all the case against present applicant No.1. In view of that petition under Section 9 and divorce petition was withdrawn. But non-applicant No.1 has not withdrawn the D.V. Proceeding. It is submitted by learned counsel for the applicants that applicant No.1 and non-applicant No.1 both resided together for one year at Amravati and Prayagraj as non-applicant No.2 was in need of specialist treatment. They initially explored relocating to child to better equipped city. However, non-applicant No.1 opposed to moving back to Bangaluru. Therefore, applicant No.1 arranged for the family to relocate at Prayagraj. During this period applicant No.1 continued working from home attended the needs of the non-applicant No.2 but there was no change in the behaviour of the non-applicant No.1. She remained adamant and therefore, applicant No.1 was compelled to vacate shared household. Despite there was settlement recorded before the Court, Judicial Magistrate First Class has passed the interim maintenance order without there being any change in circumstances. In view of that, application deserves to be allowed. He further submitted that once

non-applicant No.1 has admitted before the Court of law that she will withdraw all the cases. The principle of estoppel is applicable against her and therefore, granting of maintenance order is illegal and deserves to be quashed and set aside.

7. Per contra learned counsel for non-applicants submitted that applicant No.1 has misinterpreted all the proceedings. She invited my attention towards pursis filed by non-applicant No.1 and applicant No.1 before Family Court wherein application for restitution of conjugal rights was pending. She submitted that in view of the settlement it was decided to withdraw the divorce petition as well as petition filed under Section 9 of the Hindu Marriage Act. In fact with respect to the alleged settlement the parties resumed cohabitation and therefore, she has withdrawn the transfer proceeding of divorce at Bangalore filed before Apex Court by filing pursis with corresponding undertaking of the applicant No.1 to withdraw his divorce petition at Bangalore and resumed cohabitation.. Thereafter applicant No.1 failed to withdraw petition of divorce which was pending at the Family Court, Bangalore. Applicant No.1 intentionally continued with the said divorce petition to

create pressure upon non-applicant No.1 and ultimately, on 26.07.2024 the counsel for the non-applicant No.1 had informed Family Court at Bangaluru regarding withdrawal pursis filed by the applicant No.1 at Family Court Amravati in which applicant No.1 had agreed to withdraw above said petition. Therefore, the Presiding Judge of the Family Court Bangaluru had dismissed the proceeding for divorce filed by him and at that time, applicant No.1 withdraw divorce proceeding on last moment. After settlement on 18.12.2021 applicant No.1 and non-applicant No.1 went to Prayagraj from Amravati for treatment of their son. They resided there till 2022. Thereafter without informing the non-applicants he left them in the month of May, 2022. Therefore, she has called her father at Prayagraj and thereafter alongwith her father they returned to Amravati. Since then non-applicants are again residing at Amravati at father's house of non-applicant No.1. Thus, the acts of the applicant squarely fall within the ambit of domestic violence, therefore, non-applicant No.1 has continued with the said proceeding. In view of that, application deserves to be rejected. She submitted that against the order granting interim maintenance the applicant No.1 has already

preferred an appeal under Section 29 of the D.V. Act. For all above these reasons application deserves to be rejected.

8. I have given thoughtful consideration to the submission made by learned counsel for the respective parties. The relationship between the applicant No.1 and non-applicant No.1 that they are husband and wife and their marriage performed on 31.12.2010 is not disputed. It is also not in dispute that they are having one son non-applicant No.2 who is suffering from Cerebral Palsy. As per the allegations dispute arose between husband and wife and therefore, since 28.11.2020 they are residing separately. In the meantime, the applicant no.1 preferred divorce petition on the ground of cruelty and desertion bearing No.MC/4449/2020 having registration No.MC/4428/2020. Non-applicant No.1 has also preferred an application for restitution of conjugal rights on the ground that on 28.11.2020 applicant No.1 has withdrawn himself from the company of non-applicant No.1 without sufficient reasons. She is willing to cohabit with him and therefore, prayed for decree of restitution of conjugal rights. Non-applicant No.1 had also preferred transfer petition before Hon'ble Apex Court bearing No.881/2021. During pendency of this

application both parties arrived at settlement before that non-applicant No.1 has also preferred an application under the provisions of Domestic Violence Act seeking monetary relief under Section 12 of the said Act. In view of the settlement the transfer petition filed before the Hon'ble Apex Court was dismissed as not pressed. It is specifically mentioned in the order of Apex Court that learned counsel for the petitioner states that he has instructions to withdraw the present petition as parties have arrived at a settlement and a deed of Settlement executed by the parties has been filed before the competent Family Court, Amravati Maharashtra.

9. In view of settlement non-applicant No.1 and applicant No.1 both have filed joint pursis stating as under:-

- (1) That petitioner has filed petition for restitution of conjugal Rights u/s 9 of H.M.P against respondent.
- (2) That the matter is amicably settled between petitioner and respondent on the following terms and conditions.

(a) That petitioner will withdraw the transfer petition filed before Supreme Court.

(b) That respondent will withdraw the divorce petition family case No.4428/20 filed before Bangalore family Court.

(c) That petitioner will withdraw the RCR petition.

Accordingly, on 18.12.2021 the Family Court Amravati has passed an order that the petitioner and respondent and their learned counsel and respondent are present before the Court. They both are identified by them. They filed pursis vide Exh.10 stating that they have filed petition of Restitution of conjugal rights of Hindu Marriage Act, 1955 and petitioner will withdraw all the petitions against respondent. They have filed withdrawal vide Exh.11 stating that they do not wish to proceed with the matter. Both of them residing together. Petitioner has filed withdrawal pursis vide Exh.No.11 stating that both of them cohabiting together matter is settled between both of them. So they want to withdraw petition. Hence in

view of withdrawal pursis vide Exh. No.11 I proceed to pass the following order.

- (1) In view of withdrawal pursis vide Exh.11 petition stands disposed of as withdrawn.
- (2) No order as to costs.
- (3) Proceeding is closed.

10. Thus, in view of the Exh.10 the order was passed by Family Court Amravati. Exh.11 is also withdrawal pursis wherein it is mentioned that matter is amicably settled between both the parties. The petitioner wants to withdraw petition filed before Court under Section 9 of Hindu Marriage Petition. The petitioner and respondent had decided to reside together. Therefore, they want to withdraw this pursis. Thus, the record shows that in view of the Exh.10-11 the petition which was filed by non-applicant No.1 for restitution of conjugal rights is withdrawn and order is passed by Family Court. This compromise pursis specifically states that it was decided to withdraw the transfer petition filed before the Supreme Court and to withdraw the divorce petition filed before Bangaluru Family Court and to withdraw RCR Petition. Now it has to be seen whether in view of the said settlement

pursis applicant No.1 has withdrawn divorce petition. Admittedly, compromise pursis is filed before the Family Court at Amravati wherein it is specifically mentioned that applicant No.1 has to withdraw divorce petition and non-applicant No.1 has to withdraw restitution of conjugal rights petition. In view of that she filed withdrawal pursis Exh.11 and order is passed by Family Court at Amravati below Exh.1 on 18.12.2021. Now coming to the performance of the act by the applicant No.1 the order sheet which is filed on record in respect of divorce petition which was filed before Principal Judge Family Court at Bangalore shows that the rojanama of dated 01.06.2024 shows “petitioner present advocate for respondent present”. Advocate files no objection for vakalatnama for the petitioner along with application under Section 13 of the Family Court Act. The rojanama further shows that advocate for the petitioner filed memo dated 12.07.2024 with certified copy of the orders passed by Hon’ble Supreme Court of India reporting that the parties arrived at settlement terms and deed of settlement is executed between the parties and it is filed before the Family Court Amravati. Both counsels submit that both the parties failed to arrive at settlement. Advocate for respondent

prays time to produce the copy of settlement deed. Thereafter, rojanama dated 26.07.2024 reads as follows:-

“Both parties absent.

Both counsels present.

Advocate for respondent filed memo dated 26.07.2024 with copy of the document, reporting that the parties to the proceedings compromised the matter in RCS case No.82/2021 before Family Court, Amravati. Hence , prays for dismissal of the petition as the parties settled their dispute. Heard and perused the records.”

11. Advocate for petitioner filed memo dated 12.07.2024 with certified copy of orders passed by the Hon’ble Supreme Court of India, reporting that the parties arrived at settlement terms and deed of settlement is executed between the parties and it is filed before Family Court, Amravati.

12. In view of the settlement arrived between the parties and execution of deed of settlement before the Family Court, Amravati in RCS case No.82/2021, petition is dismissed as matter settled between the parties and settlement is also reported to the Hon’ble Supreme Court of India in T.P (Civil) No.881/2021. Thus, it is apparent that compromise pursis was filed on 18.12.2021. Withdrawal pursis is also filed to that effect before the Family

Court and in view of both Exh.10 and Exh.11 the Family Court Amravati has passed an order on 18.12.2021 and petition No.82/21 filed by non-applicant No.1 was disposed of as withdrawn.

13. It is further apparent from the said compromise pursis that it was decided between the parties to withdraw the transfer petition filed before Supreme Court and to withdraw the Family Case No.4428/20 filed before Bangalore Family Court and to withdraw RCR petition before Family Court Amravati.

14. Admittedly, in the compromise pursis there is no reference of withdrawal of the D.V. Proceeding. Therefore, contention of learned counsel for the applicants that in view of the settlement she was under obligation to withdraw D.V. Proceeding but her conduct was hostile and therefore, principle of estoppel is applicable, is not sustainable. In support of his contention he placed reliance on the decision of ***Sachin Dhondiram Chavan vs Trupti Sachin Chavan*** in Writ Petition No.3747 of 2025 wherein this Court by referring the earlier decisions observed that the general principle of estoppel is stated thus by the Lord Chancellor

in Cairncross vs. Lorimer (1860) 3 H.L.C. 829: "The doctrine will apply, which is to be found, I believe, in the laws of all civilized nations that if a man either by words or conduct has intimated that he consents to an act which is to be done and that he will offer no opposition to it, although it could not have been lawfully done without his consent, and he thereby induces others to do that from which they otherwise might have abstained, he cannot question the legality of the act he has so sanctioned, to the prejudice of those who have so given faith to his words or to the fair inference to be drawn from his conduct.

15. It is further observed by this Court that having examined the aforesaid legal position, it is clear that the estoppel is a rule of equity flowing out of fairness striking on behaviour deficient in good faith. It operates as a check on spurious conduct by preventing the inducer from taking advantage and assailing forfeiture already accomplished. It is invoked and applied to aid the law in administration of justice"

16. Learned counsel for the applicants placed reliance on the aforesaid judgment but the facts of the cited case are not identical with the facts of the present case. It is specifically

admitted that in the cited case that both applicant and non applicant therein would not file any criminal complaint or any type of application before any Court. She has withdrawn her right of maintenance and so on. Thus, consent terms were filed before the Court and subsequently she turned hostile against the said consent terms and in view of that, the observation was made by this Court that rule of estoppel is applicable against him. As far as present case is concerned, admittedly, none of the documents shows that settlement was to the extent that non-applicant No.1 has agreed to withdraw DV proceeding and therefore, contention of learned counsel for the applicants that rule of estoppel is applicable is not sustainable.

17. Now turning to the application filed by non-applicant Nos.1 and 2 for grant of monetary relief under Section 12 of the Protection of Women From Domestic Violence Act, 2005. In the said application, non-applicant No.1 has stated that her marriage with applicant No.1 was performed on 31.12.2010. After marriage she resumed cohabitation and she gave birth to non-applicant No.2 who is suffering from Cerebral Palsy. But she was subjected for Domestic Violence by the applicant No.1. she was

under expectation that one day everything will be smooth. She tolerated the same but there was no change in his behaviour. The applicant No.1 is working in Loi Service India Private Limited and having handsome income whereas she is unable to maintain. Non-applicant No.2 is also dependent on her. She was also illtreated by the applicant No.1 for demanding cash amount, ornaments and four-wheeler vehicle. Therefore, she constrained to leave the matrimonial house. She is residing in her rented premises and applicant No.1 has not made any provision for her maintenance or livelihood as she was subjected for the domestic violence. She claimed maintenance @ Rs.50,000/- from applicant No.1 for herself and for non-applicant No.2 Rs.50,000/-. She also claimed the interim maintenance. Learned Magistrate has considered the application and say filed by the applicant No.1 to the main application. Learned Magistrate has also considered the fact that she was subjected for the domestic violence and there was mental, physical and emotional cruelty. Learned Magistrate has also considered income of the present applicant No.1 and reasoned order was passed granting maintenance at the rate of Rs.60,000/- to non applicant No.1 and Rs.70,000/- to the non-applicant No.2 from the date of filing of the application. Admittedly, said order is

under challenge before the District and Sessions Judge, Amravati by preferring an appeal.

18. Now, this application is filed by the applicants for quashing of the D.V. Proceeding.

It is contention of non-applicant No.1 that she was subjected for the domestic violence. The term “Domestic Violence” is defined in Section 3 of the Protection of Women From the Domestic Violence Act, 2005 which reads as under:-

Definition of 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.

Thus, this clause defines expression domestic violence, 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 and emotional abuse economic abuse which are also explained in the clause. Section 12 of the said Act deals with procedure for obtaining order of reliefs and Section 20 of the said act deals with monetary relief.

Section 20 reads as follows:-

(1) 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.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section

(1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

This clause empowers the Magistrate to pass orders for grant of monetary reliefs to aggrieved person from the respondent to meet the expenses incurred and losses suffered including loss of earning, medical expenses, loss of property and maintenance of the aggrieved person and her children including maintenance under, or in addition, to section 125 of the Code of Criminal Procedure, 1973 or any other law for the time for the time being in force. Sub clause (2) provides that the monetary relief shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. This clause also empowers the Magistrate to order lump sum or monthly

payments for maintenance. Sub-clause (6) provides that on the failure of the respondent to make payments of the monetary relief, the Magistrate may direct the employer or a debtor of the respondent to directly pay to the aggrieved person or to deposit with the Court a portion of the wages or salaries or debt due to or accrued to the respondent.

19. The monetary relief as stipulated under Section 20 is different from the maintenance which can be addition to an order of maintenance under Section 125 of the Code of Criminal Procedure or any other.

20. As far as present case is concerned, while considering the application for interim maintenance trial Court has considered that non-applicant No.1 has alleged that she was subjected for the domestic violence. The Domestic Violence defined under Section 3 includes any harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, or if any person 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. The Explanation (i) to section 3 deals with

‘physical abuse’ means any act or conduct which is of such a nature as cause bodily pain, harm or danger to life, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force.

(ii) deals with “sexual abuse” ” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) deals with “ 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,

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds.

(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.

21. Admittedly, in the present case after non-applicant No.1 was constrained to leave the matrimonial house, admittedly no efforts are taken by present applicant No.1 to provide her any monetary accesses or facilities. There is no document on record to show that though non-applicant No.2 is suffering from Cerebral Palsy, he has not taken any efforts to give treatment to him and made an arrangement for his treatment. Section 12 of D.V. Act makes a provision enabling an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person to make an application to the Magistrate seeking one or more reliefs

provided in chapter 4. In exercise of Rule making power under Section 37 of the D.V. Act, 2005 , the D.V. Rules, 2006 have been framed. Rules 6 (1) of the D.V. Rule, 2006 that provide that every application of the aggrieved person made under section 12 shall be in Form II appended to. The basic object of D.V. 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 the women to reside in their matrimonial home or shared household. Therefore, there is provision for passing residence order under Section 19. Section 18 provides for granting protection orders which are essentially to prevent commission of acts of domestic violence against women. The orders which can be passed under Section 20 are with the object of compensating women for loss caused due to domestic violence. The custody orders regarding children are also essential to prevent domestic violence. Even Section 22 provides for passing compensation orders for the injuries including mental torture and emotional distress. Therefore, consequence of entertaining the application under Section 12(1) are not drastic as a consequences of criminal law in motion.

22. On perusal of the order passed by the Judicial Magistrate First Class granting maintenance if taken into consideration he has considered income of present applicant No.1. He has considered that on the point of interim reliefs he has considered relevant allegations and counter allegations and observed that the case of domestic violence at the hands of the applicant No.1 is made out. It is further observed that conduct of applicant No.1 clearly shows that he intends to avoid the liability of providing necessities to the non-applicants. It also apparent from the record also that he has not made any provision for providing any facilities to the non-applicant Nos.1 and 2 though he is under legal obligation to provide monetary facilities and necessary facilities to them. He has not paid any attention towards it. Thus, observing that he is under obligation to do the same he has ignored the same. Therefore, he is held liable to pay the amount towards maintenance.

23. The object of the D.V. Act for providing more effective protection of the rights of women who are victims of violence occurring within the family. At the stage of interim whether there is prima-facie case or not i.e. to be considered and the allegations

made in the application supported with an affidavit and the conduct of applicant No.1 substantiates the claim of non-applicant No.1 and 2 and therefore, it is rightly granted.

24. The present application is filed for quashing of the proceeding. There is no bar to exercise inherent power under Section 482 of the Cr.P.C. in relation to the application under Section 12(1). The Hon'ble Apex Court in the case of ***Shaurabh Kumar Tripathi vs. Vidhi Rawal*** reported ***in 2025 LiveLaw (SC) 599*** held that the High Court has to keep in mind the fact that the D.V. 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 Cr.P.C. 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 Court show restraint in exercise of jurisdiction under Section 482 of the Cr.P.C.

while dealing with a prayer for quashing the proceedings under the D.V. Act 2005, the very object of enacting the DV Act, 2005, will be defeated.

25. No doubt provisions of Section 482 of the Code of Criminal Procedure cannot be invoked as a matter of course. The Hon'ble Apex Court in the case of **Gian Singh vs State of Punjab & Anr reported in 2012 AIR SCW 5333**, has held that if the High Court finds that any proceeding is abuse of process of Court then in that case non invocation of the provisions of Section 482 of the Code of Criminal Procedure would not be justified. It needs to be recorded that merely because the enactment of D.V. Act is to provide for more effective protection of the right of the women, it would not mean that proceeding which is palpably not tenable shall be allowed to be continued. If it is allowed so then it will be nothing less than sheer abuse of process of Court. Thus, in the considered view of the Apex Court the present application for the quashment of the proceeding under D.V. Act is maintainable.

26. After going through the entire allegations levelled by non-applicant No.1 in the application under D.V. proceeding,

prima-facie case is made out as far as applicant No.1 is concerned. But admittedly there is no single allegation as far as other applicants are concerned regarding domestic violence at their hands it is apparent that they are falsely implicated merely because they are family members of the applicant No.1. More over they never resided with applicant No.1 and non-applicant No.1 in shared household.They residing at their respective place.

27. In the entire application even there is no reference of their name or any specific act wilful act on their part to attract domestic violence against them. In view of that, no case is made out against present applicant Nos.2 to 7 to attract domestic violence against them. In view of that, application deserves to be allowed partly.

28. Hence I proceed to pass the following order:-

ORDER

The application is allowed partly.

(i) The D.V. Complaint Case No.51/2021 is quashed and set aside to the extent of applicant Nos.2 to 7.

(ii) The prayer of applicant no.1 for quashing of the D.V. Complaint Case No.51/2021 is hereby rejected.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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