**(2025) 12 SHI CK 0001**

**Himachal Pradesh HC**

**Case No:** CR. MMO NO. 1042 Of 2025

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| Rajnish Kumar | APPELLANT |
| Vs | |
| Poonam Dhiman | RESPONDENT |

**Date of Decision:** Dec. 2, 2025

**Acts Referred:**

- Protection Of Women From Domestic Violence Act, 2005-Section 12, 12(1), 23, 31, 33
- Code Of Criminal Procedure, 1973-Section 227, 468, 482

**Hon'ble Judges:** Rakesh Kainthla, J

**Bench:** Single Bench

**Advocate:** Rajiv Rai

**Final Decision:** Dismissed

**Judgement**

Rakesh Kainthla, J

1. The petitioner has filed the present petition for quas ing of complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (DV Act), bearing Registration No. 27 of 2025, titled Poonam Dhiman vs. Rajnish Kumar, pending before the learned Judicial Magistrate First Class, Court No. III, Mandi, District Mandi, H.P. (learned Trial Court). (Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present petition are that the aggrieved person filed a complaint under Section 12 of the DV Act, asserting that she is the wife of the present petitioner/original respondent. The respondent tried to maintain physical relations with her. He abused and beat her. He doubted the aggrieved person’s character and made false allegations against her, which caused mental cruelty to her. The aggrieved person went to join her du ies at PGI, Chandigarh. The respondent’s mother and other family members started harassing her for jewellery. They asked her to give them her entire salary. She t ld these facts to her husband, but her husband beat her. The respondent’s mother pushed the aggrieved person into the stove to kill

her, but she saved herself. The a rieved person was residing in a rented accommodation; however, her husband frequently visited her room and beat her.

Hence, various reliefs were sought by the aggrieved person.

3. Being aggrieved by the filing of the complaint, the present petitioner/original respondent has filed the present petition asserting that the complaint does not fulfil the ingredients of the DV Act. The incident is stated to have taken place in 2017. The aggrieved person had filed a complaint against the respondent in the year 2019, but she did not proceed further with the matter. The basic object of the DV Act is to protect women from domestic violence and not to encourage belated complaints. The allegations in the complaint are false. The continuation of the proceedings amounts to the abuse of the process of the Court. Hence, the petition.

4. Mr Rajiv Rai, learned c unsel for the petitioner, submitted that the allegations in he complaint are false. The complaint was filed belatedly, and the learned Trial Court erred in taking its cognisance. Therefore, he prayed that the present petition be allowed and the complaint pending before the learned Trial Court be quashed.

5. I ave given considerable thought to the submissions made at the bar and have gone through the records carefully.

6. It was laid down by the Hon'ble Supreme Court in Shaurabh Kumar Tripathi v. Vidhi Rawal, 2025 SCC OnLine SC 1158, that the High Court should have a hands-off approach under the DV Act and should interfere only when there is gross illegality or abuse of the process of the Court. It was observed:

*"35. When it comes to the exercise of power under Section 482 of the Cr.PC in relation to an application under Section 12(1), the High Court has to keep in mind the fact that the DV Act, 2005, is a welfare legislation specially enacted to give justice to those women who suffer from domestic violence and to prevent 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 applicati n under Section 12(1). Unless the High Courts show restraint in the exercise of jurisdiction under Sec ion 482 of the CrPC while dealing with a prayer for quashing he proceedings under the DV Act, 2005, the very object of enacting the DV Act, 2005, will be defeated."*

7. It was submitted that the aggrieved person had left her matrimonial home in 2017, and she filed the complaint in the year 2025 after eight years later; hence, the complaint cannot continue. T is submission will not help the respondent. It was laid down by the Allahabad High Court in Trilochan Singh vs. Manpreet Kaur and Ors. (23.10.2021 - ALLHC): MANU/UP/3561/2021 that the petition under section 12 of the D V Act does not disclose an offence and the period of limitation provided under Section 468 of does not apply to it. It was observed:

*5. Section 468 Cr.P.C. speaks about taking of "cognizance of an offence" and the acts of domestic violence described in the D.V. Act are not offences under the D.V. Act, hence taking of the cognizance of offence is out of question, the D.V. Act is a beneficial legislation providing remedies of a civil nature for ensuring effec ive protection to women against domestic violence. The legislature in its wisdom has provided no limitation for moving an application under its Section 12, so the rigo r of provisions of the Limitation Act, 1963 shall n t apply, and the application so moved cannot be turned d wn in limine on the ground of limitation alone. The best approach would be to apply the criteria of within 'reasonable period', and what will be the 'reasonable period' will be decided on the basis of 'factual matrix' of each case, keeping in mind the principle of 'equity, justice and good conscience'.*

9. It was laid down by the Hon'ble Supreme Court in Kamatchi v. Lakshmi Narayanan, (2022) 15 SCC 50: 2022 SCC OnLine SC 446 that a petition under Section 12 of the DV Act does not disclose any offence and no limitation applies to it. It was observed at page 71:

*"19. Let us now consider the applicability of these princi-ples to cases under the Act. The provisions of the Act con-template the filing of an application under Section 12 to initiate the proceedings before the Magistrate concerned.*

*After hearing both sides and taking into account the mate-rial on record, the Magistrate may pass an appropriate or-der under Section 12 of the Act. It is only the breach of such an order which constitutes an offence, as is clear from Sec-tion 31 of the Act. Thus, if there is any offence committed in terms of the provisions of the Act, the limitation prescribed under Section 468 of the Code will apply from the date of commission of such offence. By the time an application is preferred under Section 12 of the Act, there is no offence committed in terms of the provisions of the Act, and as such, there would never be a starting point for limitation from the date of applicati n under Section 12 of the Act. Such a starting point for limitati n would arise only and only after there is a breach of an order passed under Sec-tion 12 of the Act."*

10. This judgment was followed by the Jammu, Kashmir and Ladakh High C urt in Mudasir Ahmad Dar vs. Mashooka and Ors. (20.05.2024 - JKHC): MANU/JK/0434/2024, and it was observed:

*"8. So far as the contention of the petitioner that the petition under Section 12 of D.V.Act filed by respondent No.1 is barred by time is concerned, the same is also without any substance. This question has been dealt with by the Supreme Court in the Kamatchi case (supra), and it has been held that it is not necessary that an application under Section 12 of the Act ought to be filed within a period of one year when the alleged acts of domestic violence have taken place. The contention of the petitioner is therefore without any substance.*

11. This position was reiterated in Tilak Raj v. Darshana Devi, 2025 SCC OnLine J&K 855, wherein it was observed:

*"17. In such a situation of the matter, when the bar of limitation is not applicable to a complaint/application under Section 12 or under Section 23 of the DV Act, the plea raised with*

*regard to limitation is not tenable in the case, as the provision under Section 468 Cr C regarding limitation can be made applicable to a complaint under penal provisions of Sections 31 and 33 of the DV Act, and not to any other application under the DV Act."*

12. Hence, the plea that the complaint cannot continue because it was filed belatedly cannot be accepted.

13. It was submitted that he allegations in the complaint are false. This submission cannot be entertained during these proceedings. The Court exercising inherent jurisdiction does not go into the validity r therwise of the allegations and has to treat them as correct. This position was laid down by the Hon'ble Supreme Court in Punit Beriwala v. State (NCT of Delhi), 2025 SCC OnLine SC 983, wherein it was observed: -

*"29. It is settled law that the power of quashing a complaint/FIR should be exercised sparingly with circumspection, and while exercising this power, the Court must believe the averments and allegations in the complaint to be true and correct. It has been repeatedly held that, save in exceptional cases where non-interference would result in a miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences. Extraordinary and inherent powers of the Court should not be used routinely according to its whims or caprice."*

*14. It was laid down in Maneesha Yadav v. State of U.P*., 2024 SCC OnLine SC 643, that the Court exercising inherent jurisdiction to quash the FIR cannot go into the truthfulness or otherwise of the allegations. It was observed: -

*"13. As has already been observed hereinabove, the Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR r the c mplaint at the stage of quashing of the proceedings under Section 482 Cr. P.C. However, the allega ions made in the FIR/complaint, if taken at their face value, must disclose the commission of an offence and make out a case against the accused. At the cost of repetition, in the present case, the allegations made in the FIR/c mplaint, even if taken at their face value, do not discl se the commission of an offence or make out a case against the accused. We are of the considered view that the present case would fall under Category-3 of the categories enumerated by this Court in the case of Bhajan Lal (supra).*

*14. We may gainfully refer to the observations of this Court in the case of Anand Kumar Mohatta v. State (NCT of Delhi), Department of Home (2019) 11 SCC 706: 2018 INSC 1060:*

*"14. First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge sheet is filed, the petition for quashing of the FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in Joseph Salvaraj A. v. State of Gujarat, (2011) 7 SCC 59: (2011) 3 SCC (Cri) 23. In Joseph Salvaraj A. v. State of Gujarat, (2011) 7 SCC 59: (2011) 3 SCC (Cri) 23, this Court while deciding the question of whether the High Court could entertain the Section 482 petition for quashing of FIR when the charge-sheet was filed by the police during the pendency of the Section 482 petition, observed: (SCC p. 63, para 16)*

*“16. Thus, the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same is not made out even prima facie from the complainant's FIR Even if the charge sheet had been filed, the learned Single Judge [Joesph Saivaraj A. v. State of Gujarat, 2007 SCC OnLine Guj 365 ] could have still examined whether the o ences alleged to have been committed by the appellant were prima facie made out fr m the complainant's FIR, charge sheet, d cuments, etc. or not.*

15. It was laid down by he Hon’ble Supreme Court in Dharambeer Kumar Singh v. State of Jharkhand, (2025) 1 SCC 392: 2024 SCC OnLine SC 1894 that the Court cannot conduct a mini-trial while exercising jurisdiction under section 482 of CrPC. It was observed on page 397:

*“17. This Court, in a series of judgments, has held that while exercising inherent jurisdiction under Section 482 of the Criminal Procedure Code, 1973, the High Court is not supposed to hold a mini-trial. A profitable reference can be made to the judgment in CBI v. Aryan Singh [CBI v. Aryan Singh, (2023) 18 SCC 399: 2023 SCC OnLine SC 379]. The relevant paragraph from the judgment is extracted hereunder: (SCC paras 6-7)*

*6. … As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482CrPC, the Court is not required to conduct the mini-trial. …*

*7. … At the stage of discharge and/or while exercising the powers under Section 482CrPC, the Court has very limited jurisdiction and is required to consider ‘whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not’.”*

16. This position was reiterated in Muskan v. Ishaan Khan (Sataniya), 2025 SCC OnLine SC 2355, wherein it was observed: -

*22. On the aspect of the powers of the Courts under Section 482 of the Cr. P.C., it is settled that at the stage of quashing, the Court is not required to conduct a mini-trial. Thus, the jurisdicti n under Section 482 of the Cr. P.C. with respect to quashing is s mewhat limited as the Court has to only consider whether any sufficient material is available to p oceed against the accused or not. If sufficient material is available, the power under Section 482 should not be exercised.*

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*27. We are f the view that the High Court has erred in law by embarking upon an enquiry with regard to the credibility or otherwise of the allegations in the complaints and the FIR. Normally, for quashing an FIR, it must be shown that there exists no prima facie case against the accused persons…”*

*17. Therefore, it is impermissible for this Court to conduct a mini-trial to determine whether the allegations in the FIR are correct* or not.

18. Once the contents of the complaint are taken to be correct, they disclose the physical, verbal and emotional abuse and, prima facie, satisfy the requirements of the DV Act. Therefore, it is impermissible to quash the proceedings.

19. It is undisputed that the matter is pending before the Learned Trial Court. It was laid down by the Hon'ble Supreme Court in Iqbal v. State of U.P., (2023) 8 SCC 734: 2023 SCC OnLine SC 949 that when the charge sheet has been filed, the learned Trial Court should be left to appreciate the same. It was observed:

*"At the same time, we also take notice of the fact that the investigation has been completed and the charge sheet is ready to be filed. Although the allegations levelled in the FIR do not inspire any confidence, particularly in the absence of any specific da e, time, etc. of the alleged offences, we are of the view that the appellants should prefer a discharge application before the trial court under Section 227 of the Code of Criminal Procedure (CrPC). We say so because even according to the State, the investigati n is ver and the charge sheet is ready to be filed before the competent court. In such circumstances, the trial court should be allowed to look into the materials which the investigating officer might have collected, forming part of the charge sheet. If any such discharge application is filed, the trial court shall look into the materials and take a call whether any discharge case is made out or not."*

20. Therefore, the complaint cannot be quashed on this consideration as well.

21. No other point was urged.

22. In view of the above, the present petition fails, and it is dismissed.

23. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.