

(2025) 12 SHI CK 0006
Himachal Pradesh HC
Case No: CR. MMO NO. 1114 Of 2025

Arush Gupta And Others

APPELLANT

Vs

Shruti Bhardwaj

RESPONDENT

Date of Decision: Dec. 3, 2025

Acts Referred:

- Protection Of Women From Domestic Violence Act, 2005-Section 12, 12(1), 31, 33
- Indian Penal Code, 1860-Section 406, 417, 468, 498A
- Code Of Criminal Procedure, 1973-Section 482

Hon'ble Judges: Rakesh Kainthla, J

Bench: Single Bench

Advocate: Saurav Rattan

Final Decision: Dismissed

Judgement

Rakesh Kainthla, J

1. The petitioners have filed the present petition for quashing of the complaint dated 10.6.2025, filed by the respondent (aggrieved person) under Section 12 of the Domestic Violence Act (DV Act), pending before the learned Chief Judicial Magistrate, Kullu, District Kullu, HP. (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 a Domestic Incident Report was filed before the learned Chief Judicial Magistrate, Kullu, asserting that the respondents (the present petitioners) demanded money from her on 23.4.2024. They made the allegations against her that she was suffering from a mental ailment, and they would not have solemnised the marriage between the aggrieved person and respondent No. 1 had they earlier known about her mental ailment. They abused and quarrelled with the aggrieved person. Respondent No.1 made a false allegation against the aggrieved person on 17.5.2025 that she had taken the jewellery with her. The respondents doubted the character of the aggrieved person. They harassed her for not

bringing sufficient dowry and not giving birth to a child. She was not being permitted to go outside the home and seek any employment. Therefore, she sought various reliefs under the DV Act.

3. Being aggrieved from the filing of the report, the respondents (the present petitioners) have filed the present petition asserting that the marriage between respondent No.1 and the aggrieved person was solemnised on 18.4.2024 at Kullu according to the Hindu Rites and Customs. The respondents had booked and paid for the rest house and hotel for the stay, boarding and lodging of the barat during the marriage ceremonies. The aggrieved person stayed in her matrimonial home for less than one month. She left the home on the pretext that she had to attend a family function at Kullu. The respondent No.1 had accompanied the aggrieved person to her parental home on 20.5.2024. The aggrieved person left for Tamil Nadu on 3.6.2024. She is not residing in a domestic relationship with the respondents. She has been residing separately from the respondents since 20.5.2024 without any reasonable cause. The allegations levelled by her are false. Respondent No.2 is 69 years old retired Government servant. Respondent No.3 is aged 70 years. The aggrieved person filed the petition to humiliate and harass the respondents. Respondent No.1 sent a legal notice for the restitution of the conjugal rights on 20.11.2024. The aggrieved person sent a reply through her Advocate dated 2.12.2024. She filed a false complaint under Section 12 of the DV Act on 10.6.2025. The complaint is an afterthought and counterblast to the proceedings initiated by respondent No.1. The respondents had lodged an FIR on 15.10.2025 at Police Station, Sadar, Solan, for the commission of offences punishable under Sections 406 and 417 of the IPC. No domestic relationship existed between the parties at the time of filing the complaint. The complaint is a gross abuse of the process of law. There is a delay of more than one year from the date of the incident. There is no evidence to support the allegations made by the aggrieved person. She never raised any grievance against any of the respondents during her stay in her matrimonial home. The continuation of the proceedings would amount to be an abuse of the process of law. Therefore, it was prayed that the present petition be allowed and the complaint pending before the learned Chief Judicial Magistrate, Kullu, be quashed.

4. Mr Saurav Rattan, learned counsel for the petitioners/original respondents, submitted that the aggrieved person made false allegations against the respondents. The complaint was filed one year after the incident. Therefore, he prayed that the present petition be allowed and the complaint be quashed. He relied upon the judgments of Gaurav Chaudhary and another Vs. State of HP and another 2025:HHC:2249, xxx and others Vs. State of UP and others 2024:AHC:105655, Varun Tiwari VS. State of M.P. and another MCRC-55577-2024, Shaurabh Kumar Tripathi VS. Vidhi Rawal 2025 Livelaw (SC) 599, Achin Gupta Vs. State of Haryana and another, 2024INSC369 and Mahmood Ali and others Vs. State of U.P. and others 2023 LiveLaw (SC) 613, in support of his submission.

5. I have 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 CrPC 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 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 DV Act, 2005, the very object of enacting the DV Act, 2005, will be defeated.”

7. It was submitted that no specific allegations were made against the petitioner, in the absence of which the complaint is not maintainable. Reliance was placed upon the judgments of Gaurav Chaudhary (supra), Varun Tiwari (supra) and Achin Gupta (supra). This submission will not help the petitioners because all the cited judgments deal with the commission of an offence punishable under Section 498-A of the IPC, which is criminal in nature, whereas the proceedings under the DV Act are civil in nature. This position was laid down by the Hon'ble Supreme Court in Shaikh Kishan Lal Tripathi (supra) wherein it was observed:

“28.1 Thus, there is no doubt that, notwithstanding the penal provisions in the form of Sections 31 and 33 of Chapter V, the proceedings before the Magistrate under the DV Act, 2005, are predominantly of a civil nature.”

8. Further, the Domestic Incident Report specifically mentions that the petitioners had demanded money on 23.4.2024. They made allegations against her on 28.4.2024 that she was suffering from a mental ailment, and respondent No.1 sent a message to her on her WhatsApp number on 17.5.2025, levelling the allegations of taking the jewellery. These are specific allegations with a date, and it is impermissible to quash the FIR on the ground that sufficient details were not given by the aggrieved person.

9. It was submitted that the aggrieved person levelled false allegations against the respondents. The respondents properly maintained the aggrieved person, and she left her matrimonial home without any reason. This submission will not help the respondents. The Court exercising inherent jurisdiction does not go into the validity or otherwise of the allegations and has to treat them as correct. This position was laid down by the Hon'ble Supreme Court in Punit Beriwal 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.”

10. 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 or the complaint at the stage of quashing of the proceedings under Section 482 Cr. P.C. However, the allegations 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/complaint, even if taken at their face value, do not disclose 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* [*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 [*Joseph Salvaraj A. v. State of Gujarat*, 2007 SCC OnLine Guj 365] could have still examined whether the offences alleged to have been committed by the appellant were prima facie made out from the complainant's FIR, charge sheet, documents, etc. or not.*

11. Once the contents of the Domestic Incident Report are taken to be correct, they show the economic, physical, verbal, and emotional abuse and prima facie satisfy the requirements of domestic violence. Therefore, it is impermissible to quash the proceedings.

12. 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 date, 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 investigation is over 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.”

13. A similar principle will apply to the complaint, and the complaint cannot be quashed on his consideration as well.

14. It was submitted that the complaint was filed one year after the incident. This submission will not help the petitioners. It was laid down by the Punjab and Haryana High Court in *Geeta Kapoor v. State of Haryana*, 2013 SCC OnLine P&H 21779; ILR (2014) 2 P&H 293 that a petition under the DV Act can be filed at any time during the subsistence of marriage and no period of limitation applies to it. It was observed at page 297:

“(6) The case law, Inderjit Singh Grewal's case (supra), is not applicable to the case in hand. In the cited case, there was a decree of divorce between the parties. The relationship came to an end between the parties in the cited case law. The correct view is that in the case of a decree of divorce, the limitation to file proceedings is only a year. But in this case still the relationship of husband and wife is still alive. The object of the D.V. Act is to provide effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family. So, it is held that in the case of a subsisting relationship of husband and wife, there is no limitation. Meaning thereby that the complaint under the D.V. Act can be filed at any time, as the physical and mental harassment within the family is a continuing offence.”

15. 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 DV Act does not disclose an offence and the period of limitation provided under Section 468 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 cognizance of offence is out of question, therefore, applicability of Section 468 Cr.P.C. for acting upon the applications moved under Section 12 of the D.V. Act does not seem just and legal. In other words, Section 468 Cr.P.C. has no application as far as the applications under Section 12 of the D.V. Act are concerned.

16. It was further held that the proceedings are of a civil nature, but the Limitation Act does not apply to them. It was observed:

90. Hence, at the cost of repetition, since the D.V. Act is a beneficial legislation providing remedies of a civil nature for ensuring effective 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 rigour of provisions of the Limitation Act, 1963 shall not apply, and the application so moved cannot be turned down 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'.

17. 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 principles to cases under the Act. The provisions of the Act contemplate 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 material on record, the Magistrate may pass an appropriate order under Section 12 of the Act. It is only the breach of such an order which constitutes an offence, as is clear from Section 31 of the Act. Thus, if there be 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 application under Section 12 of the Act. Such a starting point for limitation would arise only and only after there is a breach of an order passed under Section 12 of the Act.”

18. Therefore, the submission that the petition was filed after the delay and is liable to be quashed cannot be accepted.

19. It was submitted that the Court has to carefully read the complaint when there is a dispute between the parties. Reliance was placed upon the judgment of the Hon'ble Supreme Court in Gaurav Chaudhary (supra) to this effect. Even if the contents of the Domestic Incident Report are read carefully, they prima facie show that the respondents had subjected the aggrieved person to domestic violence.

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

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