(2025) 12 SHI CK 0039

Himachal Pradesh HC

Case No: CR. MMO No. 861 Of 2025

Sachin Dogra — APPELLANT

Vs

Anju Bala — RESPONDENT

Date of Decision: Dec. 17, 2025

Acts Referred:

- Protection of Women from Domestic Violence Act, 2005-Section 12, 12(1), 31, 33
- Code Of Criminal Procedure, 1973-Section 161, 173(2), 397, 482

Hon'ble Judges: Rakesh Kainthla, J

Bench: Single Bench

Advocate: Ram Kumar Gautam, Ashwani K. Sharma

Final Decision: Dismissed

Judgement

Rakesh Kainthla, J

1. The petitioner has filed the present petition for quashing of the application filed by respondent No.1 (aggrieved person) under Section 12 of the Protection of Women from Domestic Violence Act (DV Act). (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 an application under Section 12 of the DV Act against the original respondent (present petitioner). It was asserted that the marriage between the aggrieved person and the respondent was solemnised on 20.11.2013 as per Hindu Rites and Customs. They cohabited as husband and wife, but no child was born to them. The respondent treated the aggrieved person properly or a ew days; however, the respondent No.1, at the instance f ther respondents, started maltreating, giving beatings and demanding dowry from the aggrieved person. Respondents No.1 and 2 had demanded ₹5.00 lacs from the father of the aggrieved person, which was provided by him by raising a l an. The aggrieved person told the

respondents that her father was a poor person and was unable to arrange furt er loans. Respondent No.1 demanded ₹1,50,000/-from the father of the aggrieved person in January 2014, who sat sfied the demand. The respondents spent ₹1,50,000/- and started demanding more money from the father of the aggrieved person. When he could not meet their demands, they maltreated, abused and beat the complainant. Respondent No. 1 had demanded ₹50,000/- from the father of the aggrieved person in February 2015, which was paid by him to respondent No.1. Again, a demand of ₹5.00 lacs was made in September, 2015. The e, respondent No.6 came out and said that there was no one in the house and asked the aggrieved person and her father to return. Hence, an application was filed against the respondents for taking action as per the law.

3. Being aggrieved by he filing of the application, respondent No.1 has app oached this Court for quashing the complaint and the conseq ential proceedings. It is asserted that the application has been filed without any domestic violence to harass respondent No.1, who has filed a petition for restitution of conjugal rig ts. The present petition is a counterblast of the petition filed by respondent No.1. No Domestic Incident Report was filed, and the evidence of the aggrieved person was already closed. The aggrieved person examined herself and her father. There are material contradictions in the statements of the aggrieved person and her father. The aggrieved person had filed an application for deleting her name from Gram Panchayat Morsu Sultani, and learned SDM passed an order on 15.11.2014. She filed the application mentioning her address as a resident of Tehsil Churah, wherein the aggrieved person is described as unmarried. The Court had no jurisdiction at Chamba, and only the Courts at Hamirpur have the jurisdiction. No specific incident of domestic violence was mentioned with particulars of date and time. No police complaint was made to any person. No evidence was produced to prove the domestic violence. The aggrieved person sought the services of Senior Counsel at Chamba, but thereafter, she applied for legal aid. The complaint was filed against respondent No.1 and other pe sons, but the learned Trial Court dropped the proceedings against other persons. The aggrieved person and her father threatened the learned counsel for the respondent No.1. Learned Trial Court had granted the last opportunity; owever, the evidence was not closed. The affidavit was filed, and no opportunity was given to the learned counsel to seek instructions. Respondent No.1 was directed to leave the Court, which deprived him of an opportunity to seek instructions from his counsel. Learned counsel was not permitted to ask many relevant questions. The complaint has been pending for more than five years. Therefore, it was prayed that the present petition be allowed and the proceedings pending before the learned Trial Court be quashed.

4. The petition is opposed by filing a reply by respondent No.1, admitting the relationship between the parties and the pendency of the proceedings before the learned Trial Court. It was asserted that the Domestic Incident Report was already on record, which corroborates the version of the aggrieved person that she was

harassed by the respondents. There is no inconsistency in the statements of the witnesses. The aggrieved person was residing with her fa her and completed her schooling from Government Senior Secondary School, Tissa in the year 2002. Thereafter, she shifted to Hamirpur to pursue her higher education. Theref re, her name was registered with the Gram Panchayat, Morsu Sultani. She shifted to Tissa and got her name deleted from the voter list. Her name continued to be reflected in the Pariwar Register, and she applied for deletion of her name, wh ch was allowed. The surname mentioned in the Aadhar Card was rectified by the aggrieved person subsequently. Respondent No.1 and his family members used to harass and torture the aggrieved person. She had sought the services of an Advocate but could not afford the expenses of a lawyer. She came to know about the availability of the legal-aid and applied for the same. She was appointed in Himachal State Civil Supplies Corporation on outsource basis during COVID-19, and she is getting ₹8,500/-per month. The proceedings cannot be shifted to accommodate the respondent No.1. The learned Trial Court is proceeding as per the law. Therefore, it was prayed that the present petition be dismissed.

5. A rejoinder denying the contents of the reply and affirming those of the application was filed.

6. I have heard Mr Ram Kumar Gautam, learned counsel for the petitioner/respondent No.1 and Mr Ashwani K. Sharma, learned counsel for the respondent/aggrieved person.

7. Mr Ram Kumar Gautam, learned counsel for the petitioner, submitted that the learned Trial Court had no jurisdiction in the matter. The aggrieved person was registered in the Gram Panchayat, Morsu Sultani and Gram Panchayat, Paddhar (Tissa). The entries could not have been recorded in two Gram Panchayats. The right of cross-examination was denied to the respondent. The allegations in the application are false. The proceedings are not being conducted expeditiously. The aggrieved person did not approach the Court with clean hands. Therefore, it was prayed that the present petition be allowed and the proceedings pending before the learned Trial Court be quashed. He has filed written arguments, which have also been perused. He relied upon the judgments titled Sangita Saha Vs Abhijit Saha, Cr. Appeal No. 2600-2601/2016, decided on 28.1.2019, Kamlesh Devi Vs. Jai Pal and others, Diary Nos. 34053/2019, decided on 4.10.2019, Kishore Samrite Vs. State of UP and others, Cr. Appeal No. 1406 of 2012, decided on 18.10.2012, Anil Kumar Vs. Shashi Bala and others, Cr.MMO No. 30 of 2011, decided n 2.5.2017, Sarita Devi Vs. Rishi Dhiman, CMPMO No. 60 of 2018, decided on 5.7.2018, Prakash Kumar Singhee Vs. Ms Am apali Singhee, Writ Petition No. 3553 of 2018 and batch matter decided on 4.5.2018, and Prabha Tyagi Vs. Kamlesh Devi, Crl. Appeal No. 511 of 2022, decided on 12.5.2022 in support of his submission.

8. Mr Ashwani Kumar Sharma, learned counsel for the respondent/aggrieved person, submitted that the learned Trial Court has completed the recording of the

evidence of the aggrieved person and the petition for quashing the complaint is highly belated. This Court should not appreciate the contradictions in the statements of the witnesses while exercising the inherent jurisdiction. The Court has to take the averments in the complaint as correct, and these averments show the domestic violence. The Domestic Incident Report was filed, and a complaint was made to this effect, which was dealt with on the administrative side, and the grievance of the respondent No 1 regarding the introduction of the Domestic Incident Report was not found to be correct. The father of the aggrieved person has died, and the effect of asking the learned counsel to cross-examine him in the absence of the respondent no. 1 is to be seen by the learned Trial Court, along with the ther evidence. There is no reason to exercise the extraordinary jurisdiction vested in this Court. Hence, he prayed that the p esent petition be dismissed.

9. I have given c nsiderable thought to the submissions made at the bar and have gone through the records carefully.

10. It was laid down by the Honble 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.

11. It was submitted that no specific allegations were made against the respondent, and he complaint is highly vague. This submission will not help the respondent. The proceedings under the DV Act are civil. This position was laid down by the Honble Supreme C urt in Shaurabh Kumar 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.

12. The pleadings in the civil cases only contain the facts and not the evidence. Hence, the submission that the application under the DV Act is to contain the details of the incidents with supporting material cannot be accepted.

13. In any case, the application specifically mentions the various demands made by the respondents and the payment of various amounts of money by the father of the aggrieved person. The application also mentions that the respondents had harassed, beaten and tortured the aggrieved person. These allegations prima facie constitute physical, emotional and economic abuse.

14. It was submitted that the aggrieved person levelled false allegations against the respondents. The respondents properly maintained the aggrieved pers n, and she left her matrimonial home without any eason. This submission will not help the respondent. The Co rt 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 Honble Supreme ourt 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.

15. 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 [Joseph Salvaraj A. v. State of Gujarat, (2011) 7 SCC 59: (2011) 3 SCC (Cri) 23]. In Joseph Salvaraj A. [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] c uld have still examined whether the offences alleged to have been committed by he appellant were prima facie made out f om he complainant's FIR, charge sheet, documents, etc. or not.

16. It was submitted that the Domestic Incident Report was not filed bef re the Court initially and was introduced subsequently. Reference was also made to the application for file inspection filed by the respondent no. 1. This submission will not help The respondent no. 1. It is undisputed that a complaint was also made on the administrative side and was found to be incorrect. The copies of the order sheets filed show an endorsement on the margin of the order sheet dated 22.9.2017 stating that the Domestic Incident Report was filed. This is prima facie to be accepted as correct. The petitioner would be at liberty to bring this fact to the notice of the learned Trial Court, which can carry out an inquiry into the matter. However, it is impermissible for this Court to conduct any inquiry at this stage

17. It was submitted that sufficient evidence has not been produced in support of the application. No medical record and no police complaint were filed. This submission will not help the respondent. It was laid down by the Honble Supreme Court in State of Maharashtra v. Maroti, (2023) 4 SCC 298: 2022 SCC OnLine SC 1503 that the High Cou t exe cising the jurisdiction under Section 482 of Cr.P.C. cannot examine the truthfulness, sufficiency and admissibility of the evidence. It was observed:

21. If FIR and the materials collected disclose a cognizable offence and the final report filed under Section 173(2)CrPC on completion of investigation based on it would reveal that the ingredients to constitute an offence under the POCSO Act and a prima facie case against the persons named therein as accused, the truthfulness, sufficiency or admissibility of the evidence are not matters falling within the purview of exercise of power under Section 482CrPC and undoubtedly they are matters to be done by the trial court at the time of trial.

This position is evident from the decisions referred to supra.

22. In the decision in M.L. Bhatt v. M.K. Pandita, (2023) 12 SCC 821: 2002 SCC OnLine SC 1300: JT (2002) 3 SC 89, this Court held that while considering the question of quashing of FIR the High Court would not be entitled to appreciate by way of sifting the materials collected in course of investigation including the statements recorded under Section 161CrPC.

23. In the decision in Rajeev Kourav v. Baisahab, (2020) 3 SCC 317: (2020) 2 SCC (Cri) 51, a two-judge Bench of this Court dealt with the question as to the matters that could be considered by the High Court in quashment proceedings under Section 482CrPC. It was held therein that statements of witnesses recorded under Section 161CrPC, being wholly inadmissible in evidence, could not be taken into consideration by the Court while adjudicating a petition filed under Section 482CrPC. In that case, this Court took note of the fact that the High Court was aware that one of the witnesses mentioned that the deceased victim had informed him about the harassment by the accused, which she was not able to bear and hence wanted to commit suicide. Finding that he conclusion of the High Court to quash the criminal p oceedings, in that case, was on the basis of its assessment of the statements recorded under Section 161CrPC, it was held that statements thereunder, being wholly inadmissible in evidence, could not have been taken into c nsideration by the Court while adjudicating a petition filed under Section 482CrPC. It was also held that the High ourt committed an error in quashing the proceedings by assessing the statements recorded under Section 161 of the CrPC.

18. T erefore, it is impermissible to quash the application and the proceedings on the ground of insufficiency of evidence.

19. It was submitted that the learned Trial Court asked the learned counsel to cross-examine the witnesses on the same day, which is contrary to the judgment of this Court in Sarita Devi (supra). This submission will not help the petitioner because even if a wrong procedure were adopted by the learned Trial Court, that would not result in quashing the proceedings.

20. It was submitted that the Court at Tissa had no jurisdiction, the aggrieved person was a resident of Hamirpur, and she should have filed the complaint before the Courts at Hamirpur. This submission will not help the respondent. The aggrieved person specifically stated that she was residing at Tissa and had passed her school examination rom Tissa. She shifted to Hamirpur to pursue her higher studies. The truthfulness or otherwise of these allegations is o be seen at the time of the conclusion of the proceedings and not at this stage. Therefore, it is impermissible to q ash the complaint on the ground that the Court at Tissa had no jurisdiction.

21. It was submitted that the learned Trial Court had not provided an adequate opportunity to the respondent No.1 to defend himself. The remedy of the

respondent No.1 is to seek the transfer of the petition if he feels aggrieved by the conduct of the proceedings by the learned Trial Court, but the proceedings cannot be quashed simply because the petitioner feels that the proceedings were not conducted properly.

22. It was submitted that the application was filed without a Domestic Incident Report, and the proceedings are not maintainable. This is not acceptable. The Honble Supreme Court held in Prabha Tyagi (supra) that the proceedings without a Domestic Incident Report are maintainable. Therefore, in view of the binding preceding the submission that the proceedings are maintainable in the absence of a Domestic Incident Report cannot be accepted.

23. It was further submitted that a prayer was made to retain the documents on record during the cross-examination of the aggrieved persons father, but this prayer was wrongly disallowed. This submission will also not help the respondent because the Court is concerned with the quashing of the complaint and not the pr priety of the proceedings conducted by the learned Trial ourt. It will be free to the respondent No. 1 to argue before the learned Trial Court or the learned Appellate Court re arding the adoption of improper procedure, as claimed by the petitioner.

24. In Sangita Shah (supra) and Kamlesh Devi (supra), the Honble Supreme Court held that an aggrieved person is entitled to relief under the DV Act if she establishes the domestic violence and not otherwise. In the present case, it is premature to say whether the allegations of domestic violence have been established or not. Prima facie, the averments in the application filed by her disclose the domestic violence. Thus, these judgments do not apply to the present case.

25. In Kishore Samrite (supra), it was held that a person who does not come with clean hands is not entitled to any relief. This question has to be considered by the learned Trial Court. Suffice it to say that no case is made out or quashing the proceedings on the ground that the petiti ner had not approached the Court with clean hands.

26. In Anil Kumar (sup a), this Court found after the trial that the evidence had not proved the maltreatment and violence. No specific allegati ns were made. No independent witness had supported the case of the aggrieved person. Thus, it was held that the domestic violence was not proved. These are pure findings of fact and will not apply to the present case.

27. The respondent tried to invite the findings of this Court on the factual controversy by referring to the various documents and statements on oath. This is not permissible. It was laid down by the Honble 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 at 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 req ired to conduct the mini-trial.

7. At the stage of discharge and/or while exercising the p wers 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.

28. T is 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 jurisdiction under Section 482 of the Cr. P.C. with respect to quashing is somewhat limited as the Court has to only consider whether any sufficient material is available to proceed 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 of 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

29. Therefore, it is impermissible for this Court to conduct a mini-trial and record any finding, especially when the matter is pending before the learned Trial Court.

30. A perusal of the record shows that the application was filed before the learned Trial Cou t on 23.6.2016, and the present petition was filed in the year 2021 after the lapse of five years. The statements of two witnesses had been recorded by that time, and the matter was listed for the evidence of the respondent. It was laid down by the Delhi High Court in Sanyam Bhushan v. State (NCT of Del i), 2024 SCC OnLine Del 4545, that the Court should not entertain the belated petitions for quashing the FIR. It was observed:

43. At the outset, I find merit in the submission made by the learned counsel for the Complainant that the present set of petitions is liable to be dismissed

on the ground of delay and laches, as also for the failure of the petitioners to avail of their alternate efficacious remedy in the form of Revision Petitions under Section 397 of the Cr. P.C.

44. It need not be emphasised that powers under Section 482 of the Cr. PCs are discretionary in nature, and though there may not be a total ban on the exercise of such power where the situation so warrants, at the same time, there are limitations of self-restraint that are recognised and followed by the Courts in exercising this jurisdiction One such limitation is where the petitioner had an alternate efficacious remedy; however, they did not avail of the same within the period of limitation and thereafter filed the petition under Section 482 of the Cr P.C. to overcome the objection of limitation. Similarly, the Courts have refused to entertain a petition under Section 482 of the Cr. P.C., where it is filed with unexplained delay and laches and in the meantime, the trial has proceeded.

31. The learned Trial Court is seized of the matter. It is conducting the proceedings. The evidence of the aggrieved person has been recorded, and it would not be justified to exercise the inherent jurisdiction to q ash the proceedings at this stage.

32. No other point was urged.

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

34. The observations made hereinabove are regarding the disposal of this petition and will have no bearing whatsoever on the case's merits.