

GJJN110002862026 	 सत्यमेव जयते	Date of filing the case		02/04/2026		
		Date of Registration		02/04/2026		
		Date of Judgment		15/06/2026		
		Duration		Year	Months	Days
				00	02	13

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JUDICIAL
MAGISTRATE FIRST CLASS, BHESAN, DISTRICT JUNAGADH**

Criminal Misc. Application No. 08 of 2026

*(Subsequent Application under Section 12 of the Protection of
Women from Domestic Violence Act, 2005)*

Applicant:

[BHAVNABEN BHAVESHBHAI BHESANIYA]

Age: 45 Years, Occu:House wife, Residing at: Bhesan

Versus

Respondents:

1.[BHAVESHBHAI RATILAL BHESANIYA] Age:37 Years,
Occu:Construction etc.,

2.Ratilal Kababhai Bhesaniya Age-65 yrs, Business- construction

3.Manjulaben Ratilal Bhesaniya

All of the above-Residing at:Bhesan, Junagadh.

Appearance-

Ld.Advocate for Applicant: Mr.A B DUDHREJIA

Ld.Advocate for Opponents: Mr. M M SAMA

**Order below Exh.1 and below Exh.12 an application
tendered by Id. Adv for the respondents-**

1. Brief facts of this application:

1.1The Applicant has preferred the present fresh application dated **02/04/2026** under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as "DV Act") seeking protection, residence, and monetary reliefs against the Respondents. The parties have lived separately for approximately 10 years

A perusal of the record reveals a critical, undisputed judicial history between the exact same parties:

- The Applicant had previously filed an application under Section 12 of the DV Act [**Criminal Misc. Application No. 03 of 2019**] before this very Court on identical facts, contentions, and relationship dynamics.
- After a full-fledged trial, evaluating evidence, and cross-examination, this Court (my predecessor Ld. Judge saheb) comprehensively adjudicated the previous application and **rejected it on merits on 30/01/2021**, categorically holding that **the allegations of domestic violence were not proved**.
- **No appeal under Section 29 of the DV Act was preferred against the said final judgment dated 30/01/2021**, and consequently, that judgment has attained absolute finality.

1.2 The present subsequent application has been moved on **02/04/2026**, seeking to agitate the same marital dispute and re-litigate the claims that were already put to rest.

2. Points for Determination

- **I.** Whether a subsequent/second application under Section 12 of the DV Act is maintainable between the same parties when the first application has already been dismissed on merits upon a finding of falsity?
- **II.** Whether the subsequent application is barred by the principles of *Res Judicata* and abuse of the process of law under the relevant provisions of the DV Act and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)?

3. Legal Evaluation & Findings

(3.1)The learned Advocate for the Respondent has strongly challenged the maintainability of this case, arguing that the subsequent application is a mirror image of the previously dismissed application and is directly barred by the doctrine of *res judicata*.

Although the DV Act is handled by a Criminal Court, it is a well-settled legal proposition that the reliefs provided under Sections 18, 19, 20, 21, and 22 are purely **civil in nature**. It is well established that an application under Section 12 is not a "criminal complaint" and its initial adjudication is a quasi-civil proceeding.

Consequently, the universal doctrine of ***Res Judicata*** (embodied in Section 11 of the Civil Procedure Code, 1908), which dictates that a cause of action once heard and finally decided by a

competent court cannot be re-litigated between the same parties, applies with full force to the DV Act. The principle is founded on the public policy maxims:

1. **Nemo debet bis vexari pro una et eadem causa** (No man should be vexed twice for the same cause).
1. **Interest reipublicae ut sit finis litium** (It is in the interest of the State that there should be an end to litigation).

If a wife's application under the DV Act is dismissed on merits after a full trial, she cannot file a second application on the exact same bundle of facts and past allegations.

(3.2) For a subsequent application under the DV Act to be maintainable, there must be a completely fresh/new cause of action arising out of a ***domestic relationship*** where the parties are living together or have lived together in a *shared household* after the dismissal of the first case.

In the present matter:

- The parties have been separated for several years, and their domestic tie was effectively severed at the time of or prior to the 2021 dismissal.
- No fresh cohabitation or shared household entry occurred after 30/01/2021.
- Therefore, there is no subsequent "domestic relationship" within the meaning of Section 2(f) from which a fresh incident of domestic violence could arise.

Entertaining this application would amount to allowing a continuous harassment of the Respondent, a mockery of the

finality of judicial judgments, and a gross **abuse of the process of the Court**, which this Court is duty-bound to prevent under its inherent powers as well as under the procedural checks of the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**. Permitting a failed litigant to re-verify the same "false" claims after 5 years undermines the integrity of the judicial system.

(4) The New Incident Advanced by the Applicant-

(4.1) In present application applicant asserts that five days prior to **19/03/2026**, she encountered the Respondent on a public road, where he (Respondent no.1) verbally invited her to come back and cohabit with him. She claims that when she arrived at his residence on **19/03/2026**, the Respondents physically assaulted her, subjected her to filthy verbal abuse, and forcibly threw her out of the house. She further alleges that the Bhesan Police, acting in collusion with the Respondents, bundled her into a police vehicle against her will, dragged her out, and initiated false preventive proceedings before the Executive Magistrate, Bhesan.

(4.2) The Counter-Version of the Respondents-

Conversely, the Respondents vehemently deny invoking cohabitation. They state that **To circumvent the legal hurdle of *res judicata* stemming from the dismissal of her 2019 application**, the Applicant has set up a new cause of action, the Applicant arrived at their house uninvited on **19/03/2026** accompanied by an unknown young woman. According to the written police complaint filed by the Husband at the Bhesan Police Station on the very same day (**19/03/2026**), the Applicant

forced entry into his house, created a severe public nuisance, threatened to forcefully occupy the property.

Following this disturbance, the local police intervened via the emergency 112 services. Due to the immediate threat to public peace, a dynamic preventive case was registered against the Applicant under **Chapter Case No. 38 of 2026** before the Executive Magistrate Court, Bhesan. On **20/03/2026**, the Executive Magistrate explicitly exercised powers under Section 107/109/110 of the Cr.P.C. (corresponding to the provisions of sec.126/128/129 of the Bharatiya Nagarik Suraksha Sanhita, 2023) and ordered the Applicant to execute a interim peace bond/bail bond of ₹5,000 for maintaining law and order.

(5). Legal Analysis & Findings

The singular legal issue before this Court is **whether the incident dated 19/03/2026 constitutes a genuine, actionable fresh cause of action under the DV Act?, or whether it is a fabricated event designed to resurrect dead litigation?.**

I. Analysis of the Chapter Case & Police Records

The undisputed documentary evidence on record, specifically the official records of the Executive Magistrate, Bhesan in **Chapter Case No. 38 of 2026** (dated 20/03/2026), decisively shatters the Applicant's narrative. An Executive Magistrate initiates Chapter proceedings and demands an interim peace bond only when there is an imminent, localized threat of a breach of public tranquility caused by the high-handed behavior of a party. **If the Applicant had been a genuine victim of physical assault and criminal trespass by her husband inside his house, the police would**

have registered an FIR or a non-cognizable offense against the husband under the substantive provisions of the Bharatiya Nyaya Sanhita, 2023 (BNS). Instead, the police found the Applicant to be the aggressor, leading to Chapter proceedings being initiated against her.

II. Absence of Domestic Relationship and Shared Household

To sustain an application under Section 12 of the DV Act, the existence of a "domestic relationship" in a "shared household" under **Sections 2(f) and 2(s) is an inescapable prerequisite.**

- It is admitted by the Applicant herself that she has lived separately in her parental home for 10 years.**(page no.4 of the application, 7th line)**
- A fleeting, forced attempt to enter the husband's independent household by creating a public scene—which was immediately countered by emergency police intervention—**does not establish the re-entry or existence of a "shared household."**

The Hon'ble Supreme Court in **Satish Chander Ahuja v. Sneha Ahuja (2021 1 SCC 414)** held that a **shared household requires a elements of permanence or living in a joint household in the ordinary course of a domestic relationship.** Meaning of expression “lives or at any stage has lived in a domestic relationship” words in said expression have to be given its normal and purposeful meaning. living of woman in a household has to refer to a living which has some permanency, mere fleeting or casual living at different places shall not make a share household, ***intentio n of parties and nature of living***

including nature of household have to be looked into to find out as to whether parties intended to treat premises as shared household or not. A single day's forced trespass or staged dispute, which results in the invocation of preventive criminal law by law enforcement, cannot be interpreted as a domestic relationship.

III. Application of the Doctrine of Res Judicata and Abuse of Process

(a) Since the Applicant's prior extensive application under the DV Act (Criminal Misc. App. No. 3/2019) was fully dismissed on merits, she cannot use a manufactured, post-dismissal altercation to re-litigate her entire marital lifetime claims.

(b) The courts of law will not allow a litigant to abuse the statutory machinery of social welfare laws to continuously harass an adversary. The timeline reveals that after failing in the previous round of DV litigation and family court disputes, the Applicant took the law into her own hands on 19/03/2026 to forcefully establish a physical presence at the Respondent's house, which is clearly verified by the official station diary entries and **the subsequent bail-bond order passed by the Mamlatdar & Executive Magistrate, Bhesan.**

(c) Allowing a fresh trial based on such an explicitly contrived incident would undermine the sanctity of final judicial orders and subject the Respondents to double jeopardy. Hence I pass the following order in the greater interest of justice.

// ORDER //

I. The subsequent application preferred by the Applicant under Section 12 of the Domestic Violence Act, dated **02/04/2026**, is hereby **Dismissed as Unmaintainable**.

II. This Court finds that the alleged cause of action dated 19/03/2026 is a legally untenable, manufactured incident, as supported by the contemporaneous preventive peace-bond proceedings concluded against the Applicant by the Executive Magistrate, Bhesan, in Chapter Case No. 38 of 2026.

III. The application is strictly barred by the principle of **Res Judicata**, as the core issues and facts between the identical parties were conclusively adjudicated and **rejected as not proved by this Court** vide judgment dated 30/01/2021 in Cr.M.A.J No.03/2019. The substantive reliefs sought herein are strictly barred by the principles of *Res Judicata* and constitute an abuse of the process of law.

IV. No order as to costs.

V. A copy of this order be provided to both parties free of cost.

Order signed and pronounced today on this 15th day of june of 2026 in Open Court.

Date:15/06/2026

Bhaskarkumar Rameshbhai Kariya

Place: Bhesan

Principal Civil Judge& J.M.F.C.

Bhesan

Judge Code No.:GJ01626