

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
44TH COURT, ANDHERI, MUMBAI.

C.C.No.296/DV/2021

Varsha Nilesh Dani Vs Nilesh Sharad Dani and Ors.,

**ORDER PASSED ON THE OBJECTION FOR WITHHOLDING THE MATTER
DUE TO NO OBJECTION FROM THE ADVOCATE.**

(Passed on 13/01/2026)

Adv. Priya Gupta filed this objection to the present proceeding in hand on the ground that the respondent who had engaged her as an advocate to conduct the present matter, did not pay her professional fees and therefore, she objected the matter and submitted that the matter should not be proceeded unless and until her no objection is taken.

2. This Court called the say of the respondent who submitted that due to incidents involving professional misconduct, repeated non appearance before the Courts, use of derogatory and casteist language and lack of professionalism, he has chosen to discontinue the services of Adv. Priya Gupta. According to him, he paid the substantial fees to Adv. Priya Gupta. He submitted the details regarding the payment of the fees. Thus, by denying the adverse allegations leveled against him, he sought the permission to appoint another advocate in this matter and prayed to reject the application filed by Adv. Priya Gupta.

3. After perusal of record, it appears that Adv. Priya Gupta filed the present objection on 22/07/2025. The respondent filed the say to this objection on 24/09/2025. The record shows that Adv. Priya Gupta remained absent in this matter since 22/07/2025. The present case came to be filed under section 12 of the Protection of Women from Domestic Violence Act, 2005 against the respondents. Hence, having regard to the settled provisions of this Act, this case needs to be adjudicated within the time frame. But since the objection was moved by Adv. Priya Gupta, the matter was kept pending for hearing since 24/09/2025. However, Adv. Priya Gupta did not appear before this Court since the date of filing the objection. In such circumstances,

having regard to the nature of the case, the present application/objection on hand needs to be decided on merits.

4. It would not be out of place to mention here that unlike the other professions, law is considered as a noble profession which is built on mutual trust and professional ethics between lawyers and client. It is pertinent to note here that a lawyer plays a very crucial role in ensuring justices for his/her client.

5. Adv. Priya Gupta alleged that the respondent did not pay her professional fees. On the other hand, the respondent denied these allegations and submitted that he wants to engage new advocate in this matter. In such scenario, this Court is of the considered opinion that if Adv. Priya Gupta has any grievance against the respondent regarding non-payment of her professional fees, then she may adopt the legal remedies to recover the said fees in accordance with the settled provisions of law. But only on the ground mentioned in this application, the matter cannot be withheld.

6. Apart from this, there is no provision either in the Code of Criminal Procedure or Code of Civil Procedure for withholding any legal proceeding due to non payment of the professional fees to an advocate engaged by any party to that proceeding. Thus, I do not find any legal force in the objection raised by the learned Adv. Priya Gupta.

7. It is pertinent to note here that the proceeding initiated under the Protection of Women from Domestic Violence Act, 2005 is regulated as per the provisions of the Bharatiya Nagarik Suraksha Sanhita. In view of the provisions of Section 340 of the Bharatiya Nagarik Suraksha Sanhita, a person against whom proceedings are instituted under this Sanhita, may of right be defended by a pleader of his choice. Moreover, a right of person being represented through a lawyer of his choice is also recognized in the Constitution of India. Hence, having regard to the settled provision of section 340 of the Bharatiya Nagarik Suraksha Sanhita and the relevant provisions of the Indian Constitution, this Court is of the opinion that when the respondent is not satisfied with the services rendered by Adv. Priya Gupta,

then he is entitled to engage another advocate of his choice to defend this matter.

8. In view of the discussion noted above, I have come to the conclusion that if there is any outstanding professional fees payable by the respondent, then Adv. Priya Gupta may initiate legal proceeding in accordance with law for recovery of the said unpaid fees. But she cannot seek the relief to withhold the matter on the ground noted above. Hence, having regard to the nature of the case and considering the rights of the parties to the proceedings regarding the speedy trial, I do not find any substance in this application for withholding the matter on the grounds mentioned in the present application on hand. Resultantly, I pass the following order:

ORDER

- 1 The application is rejected.
- 2 The respondent is at liberty to engage an advocate of his choice in this matter.

Sd/-

(Sujitkumar C. Tayde)
Judicial Magistrate First Class,
44th Court, Andheri, Mumbai.

Date :- 13/01/2026