

UPET010071922025



IN THE COURT OF A.S.J. COURT No.-01, ETAH

Present: Smt. Manisha, H.J.S. (JO CODE-UP6137)

Criminal Appeal No. – 111/2025

1. Harendra (aged about 34 years), Son of Anar Singh
2. Anar Singh (aged about 70 years), Son of Nekse Singh
3. Smt. Kayamshri (aged about 76 years), Wife of Anar Singh
4. Ravendra (aged about 32 years), Son of Anar Singh
5. Jitendra (aged about 42 years), Son of Anar Singh
6. Pushpendra (aged about 30 years),
All residents of Bada Bazar, Kasba & Police Station Nidhauri Kalan,
District Etah, Uttar Pradesh.

.....Appellants

VERSUS

1. State of Uttar Pradesh through District Government Counsel (Crl.), Etah.
2. Smt. Hema, Wife of Harendra, Daughter of Chandrapal Singh, Resident of Bada Bazar, Kasba & Police Station Nidhauri Kalan, District Etah. (Presently residing at Nagla Bandi, Police Station Nidhauri Kalan, District Etah).

.....Opposite Parties

JUDGEMENT

1. This criminal appeal has been preferred under Section 29 of the Protection of Women from Domestic Violence Act, 2005, against the judgment and order dated 16.10.2025 passed by the learned Civil Judge (Junior Division) / Fast Track Court (Crime Against Women), Etah, in Complaint Case No. 1912 of 2022, entitled *Smt. Hema versus Harendra and others*, whereby the learned trial court allowed the application filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005, and passed an ex-parte order directing the appellant No. 1 to pay a monthly maintenance sum of ₹1,000 to the respondent No. 2 from the date of the application, to be paid by the 10th day of each calendar month, encompassing expenses towards food, clothing, medical treatment, and other domestic necessities, subject to adjustment against any maintenance awarded by any other

competent court. The learned trial court further directed the appellant No. 1 to provide alternative residential accommodation of the same standard as enjoyed by the respondent No. 2 in the shared household or ensure residential facilities at the matrimonial home, and also directed the appellant No. 1 to pay a lump sum compensation of ₹20,000 towards physical, mental, and emotional trauma inflicted upon the respondent No. 2. Additionally, under Section 18 of the Act, the appellants were strictly prohibited from committing, abetting, or attempting to commit any acts of domestic violence against the respondent No. 2. The appellants, being deeply aggrieved by the legality, propriety, and correctness of the said ex-parte order, have preferred the instant appeal praying for the setting aside of the impugned judgment and order dated 16.10.2025.

2. The contextual facts matrix, as unraveled from the trial court record and the pleadings of the parties, reveals that the marriage of the respondent No. 2, Smt. Hema, was solemnized with the appellant No. 1, Harendra, on 24.02.2017 in accordance with Hindu religious rites and rituals at Gram Nagla Bandi, Police Station Nidhauri Kalan, District Etah. It was contended by the complainant in her underlying petition that her parents and family members had spent an exorbitant sum of approximately ₹10,000 to ₹20,000, including cash and valuable items, matching their socio-economic status, to ensure a dignified wedding. In addition to the household items, brass, steel, and copper utensils, a gold ring, a gold chain, and a Passion Pro motorcycle were provided to the bridegroom and his family at the time of marriage. Following the consummation of the marriage, the complainant moved to her matrimonial home at Bada Bazar, Kasba Nidhauri Kalan, where she diligently performed her conjugal and marital duties. However, shortly after her arrival, she discovered that the husband and his relatives, namely his father Anar Singh, his mother Smt. Kayarnshri, and his brothers Ravendra, Jitendra, and Pushpendra, were utterly dissatisfied with the quantum of dowry brought by her. They began subjecting her to persistent taunts, mental harassment, and physical abuse, raising an unlawful demand for a Scorpio car and an additional cash component of ₹10,000.
3. The record further reveals that when the complainant returned to her parental home after ten days of the marriage, she narrated the harrowing experience of the illicit demands and cruel behavior of her in-laws to her family members. Her parents, balancing social decorum

with maternal concern, comforted her and requested her to return, hoping that with the passage of time, the behavioral aberrations of the appellants would pacify. Upon her return to the shared household, the appellants aggressively confronted her as to whether she had fetched the demanded car and cash from her father. On her expressing the financial incapacity of her family, the physical and verbal onslaught escalated exponentially. Despite being subjected to grave cruelty and continuous deprivation of basic rights, the complainant bore the agony silently to save her marriage. When the abuse reached intolerable limits, she informed her father, who along with respectables of the village, including Ramniwas, Opendra Kumar, Deepak Kumar, and Sukhveer Singh, visited the appellants' house to mediate. They implored the appellants to treat the complainant with dignity and expressed their absolute inability to purchase a Scorpio car or arrange further cash, given the existing debt incurred during the wedding. The appellants remained completely recalcitrant, explicitly stating that they would not keep the complainant unless their demands were satisfied in full, and insulated the well-meaning mediators with abusive language, expelling them from the premises.

4. It is further alleged in the complaint that once the appellants realized that their illegal demands would not be fulfilled by the complainant's family, they entered into a orchestrated conspiracy. They physically assaulted the complainant, stripped her of her entire *Stridhan*, ornaments, and personal belongings, and forcibly placed her on a motorcycle in her wearing apparel, abandoning her near her parental village with a parting threat that if she dared to return without the Scorpio car and cash, she would be liquidated and her body made to disappear, enabling the appellant No. 1 to contract a second marriage for a lucrative dowry. Left with no option, the complainant reached her parental house and related the entire occurrence to her family. Subsequent attempts by her relatives to forge a reconciliation were summarily rejected by the appellants. Since her expulsion, the appellants completely abandoned the complainant, failing to provide any maintenance, sustenance, or shelter, leaving her entirely dependent on her father, whose financial position was already compromised due to outstanding marriage loans. The complainant asserted that the appellant No. 1 possesses substantial financial means, deriving income from multiple commercial shops yielding rental returns, dairy farming, and agricultural land, totaling a monthly

income of ₹55,000, whereas she is a mere intermediate pass with no independent source of income or sustenance.

5. The trial court record demonstrates that upon the institution of the complaint case under Section 12 of the Act, the court issued statutory notices to the appellants through the prescribed modes to appear and file their objections. Despite service of notices being deemed sufficient by operation of law, the appellants deliberately chose to abstain from the proceedings, prompting the learned trial court to pass an order on 04.02.2025 holding the service to be sufficient. Consequently, by a detailed order dated 08.07.2025, the opportunity for the appellants to file their reply/objections was closed, and the matter was directed to proceed ex-parte. The domestic incident report from the District Probation Officer dated 09.12.2022 was already on record, which substantiated the broad indicators of domestic violence. The complainant produced her ocular evidence by way of an affidavit as PW-1, reaffirming the absolute truth of the allegations contained in her petition. She also filed her assets and liabilities affidavit in terms of the settled legal standards under Section 4B of the trial court file. After evaluating the uncontroverted evidence, the learned trial court concluded that the complainant was a victim of domestic violence within a shared household and passed the impugned order dated 16.10.2025.
6. In the present memorandum of appeal, the appellants have challenged the trial court's order on multiple grounds, contending primarily that the impugned order dated 16.10.2025 was passed ex-parte, in flagrant violation of the principles of natural justice and without giving them a reasonable opportunity to project their defense. It is urged that the appellants never received any formal summons or notices from the trial court, and the declaration of sufficiency of service dated 04.02.2025 was completely erroneous and based on a manipulated record. They further asserted that on the very day the judgment was pronounced, i.e., 16.10.2025, the appellants had traveled to the Etah court complex to look after another pending legal matter, where they happened to spot the complainant in the court precincts. Upon inquiring through their counsel, they discovered the existence of the ex-parte domestic violence proceedings and immediately moved a appearance application accompanied by a *Vakalatnama*, requesting the court to grant them time to file their objections. It is vehemently contended that the learned trial court, ignoring their presence and

request for a fair trial, rejected their application and proceeded to pass the final judgment on the same day, which reflects a complete non-application of judicial mind and an arbitrary haste to dispose of the matter.

7. The appellants have further asserted in their grounds of appeal that the complainant is a highly shrewd and litigious lady who has weaponized matrimonial laws to harass the entire family of the husband. They pointed out that the complainant had filed a matrimonial suit for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955, before the Principal Judge, Family Court, Etah, registered as Matrimonial Suit No. 65 of 2025, wherein the appellant No. 1 has already appeared through his guardian/next friend due to certain legal disabled conditions. It is argued that the allegations and narrative set forth by the complainant in the divorce petition are totally distinct and divergent from the facts stated in her domestic violence affidavit, and this critical suppression of facts was designed to deceive the trial court. Furthermore, the appellants highlighted that the complainant had also initiated a parallel proceeding under Section 125 of the Code of Criminal Procedure, 1973, before the Family Court, Etah, and by keeping the appellants in the dark, obtained an ex-parte maintenance order dated 04.01.2024 for ₹4,000 per month. The appellant No. 1 has already moved an application under Section 126(2) of the CrPC to set aside the said ex-parte order, which is currently sub-judice. On these premises, the appellants contend that the trial court's order is legally unsustainable and liable to be quashed.
8. Conversely, the learned Assistant District Government Counsel appearing for the State, along with the learned counsel for the private respondent No. 2, has robustly countered the arguments of the appellants, arguing that the appeal is completely devoid of merits and constitutes a desperate attempt to evade statutory liabilities towards a deserted wife. It is argued that the trial court record explicitly manifests that multiple notices were sent to the residential address of the appellants at Bada Bazar, Nidhauri Kalan, which is their admitted place of residence, and the tracking reports and process server entries clearly established that the appellants intentionally avoided service to frustrate the summary remedy provided under the Act. It is contended that the court cannot remain a silent spectator to tactical maneuvers where a husband deliberately avoids court processes and subsequently claims a violation of natural justice when an order is passed against

him. The learned counsel for the respondent argued that the appearance of the appellants on the final date of judgment with a *Vakalatnama* was nothing but a calculated ploy to derail the final disposal of a case that had been languishing since 2022, and the trial court was fully justified in rejecting such a belated intervention when the matter had already reached the stage of pronouncement of judgment.

9. The learned counsel for the respondent No. 2 further contended that there is absolute legal consistency across all proceedings initiated by the complainant, as the core fact remains that she was brutally driven out of her matrimonial home for want of a Scorpio car and cash. The non-mention of specific criminal pleadings in the divorce suit or the maintenance petition does not detract from the substantive reality of her destitution and the domestic violence inflicted upon her. It is submitted that the trial court took judicial notice of the pre-existing maintenance order of ₹4,000 passed under Section 125 CrPC and balanced the equities by awarding a modest additional sum of ₹1,000 per month under the Domestic Violence Act, keeping in mind the rising cost of living and inflation. The learned counsel emphasized that the evidence of the wife remained un-rebutted on record, and under settled legal principles, an un-contradicted statement on oath, which is inherently probable and consistent, must be accepted as true. Therefore, it is urged that the trial court's appreciation of evidence and application of law were perfectly sound, and the appeal deserves a total rejection.
10. For a comprehensive adjudication of the controversy, it is imperative to closely examine the procedural history regarding the service of notices and the framing of issues before the court below. The trial court, acting on the application under Section 12, was required to satisfy itself that the opposite parties were duly served. The record confirms that notices were dispatched repeatedly via both registered post and through the protection officer/local police station. The refusal or deliberate avoidance of a summons addressed to an accurate and admitted residential address amounts to deemed service under well-established tenets of law. The appellants have not disputed that they reside at Bada Bazar, Kasba Nidhauri Kalan. Therefore, the trial court's order dated 04.02.2025, recording satisfaction as to the sufficiency of service, cannot be termed as mathematically or legally flawed. The subsequent closure of the opportunity to file an objection on 08.07.2025 was a

natural procedural consequence of the appellants' persistent default. The summary nature of the Protection of Women from Domestic Violence Act, 2005, demands swift adjudication, and a party cannot be allowed to weaponize their own negligence or intentional absence to keep the proceedings in a state of permanent suspended animation.

11. A meticulous analysis of the sole testimony of the complainant, Smt. Hema (PW-1), tendered by way of her examination-in-chief via affidavit, reveals a consistent, detailed, and clear narrative of her matrimonial life and the subsequent discord. She has testified with absolute clarity regarding the date of her marriage, i.e., 24.02.2017, and the extensive expenditure incurred by her family. Her deposition regarding the specific demand for a Scorpio car and ₹10,000 cash, made jointly by her husband and his family members shortly after the marriage, contains no internal contradictions or intrinsic defects. She has vividly described the incidents of physical and verbal abuse, her temporary return to her parental home, the failed mediation attempt by the village respectables, and her ultimate brutal expulsion from the shared household in nothing but her wearing apparel. Since the appellants chose to remain absent and allowed the proceedings to go ex-parte, this testimony was never subjected to cross-examination. It is a settled legal principle that where the evidence of a witness is not subjected to cross-examination despite opportunity or due notice, and such evidence is not inherently improbable or contrary to the record, the court must treat the facts stated therein as proved. The defense cannot complain of a lack of cross-examination when they themselves created the situation of default.
12. The essential legal ingredients to constitute an offense or attract liability under the Protection of Women from Domestic Violence Act, 2005, require the establishment of a domestic relationship, a shared household, and the commission of domestic violence as defined under Section 3 of the Act. Section 3 defines domestic violence in a highly comprehensive manner, encompassing physical, sexual, verbal, emotional, and economic abuse. In the present case, the status of the complainant as the legally wedded wife of appellant No. 1 is an admitted fact, establishing a valid domestic relationship. The matrimonial home at Bada Bazar, Nidhauri Kalan, where the parties resided together after the marriage, constitutes a "shared household" within the meaning of Section 2(s) of the Act. The un-rebutted deposition of PW-1 explicitly demonstrates that she was subjected to

continuous physical assault, systemic emotional torture through dowry demands, and severe economic deprivation by being stripped of her *Stridhan* and expelled without any means of sustenance. This conduct squarely satisfies the descriptions of physical, verbal, and economic abuse under Section 3, fully justifying the trial court's conclusion that domestic violence had been committed against the respondent No. 2.

13. The grounds raised by the appellants regarding the parallel proceedings under Section 13 of the Hindu Marriage Act and Section 125 of the CrPC require closer scrutiny under the lens of settled legal principles. The appellants contend that the filing of multiple cases reflects a malicious intent to extract money and harass the family. However, it is a well-established tenet of law, as enunciated by the highest judicial forums of the country, that the remedies available to an aggrieved wife under different statutes are independent and co-extensive. A wife can legally maintain a claim for maintenance under Section 125 CrPC, a claim for alimony under the Hindu Marriage Act, and distinct reliefs by way of monetary orders and protection orders under the Domestic Violence Act. The only judicial caution required is that the courts must adjust or take into account the quantum of maintenance awarded in a previous proceeding while deciding the subsequent monetary relief, ensuring that no double enrichment or inequitable burden is placed on the husband.
14. The trial court's judgment demonstrates an acute awareness of this legal principle. The learned Civil Judge took specific note of the fact that the Family Court, Etah, had already passed an order on 04.01.2025 directing the husband to pay ₹4,000 per month under Section 125 CrPC. Keeping that factor in mind, the trial court did not award an extravagant amount but restricted the monetary relief under Section 20 of the Domestic Violence Act to a nominal sum of ₹1,000 per month to cover additional household and medical expenses, explicitly clarifying that this amount would be subject to adjustment and calibration against final orders in other parallel proceedings. Therefore, the argument of the appellants that the trial court failed to apply its judicial mind or that the existence of parallel proceedings vitiates the order is completely fallacious and unsustainable in the eyes of law.
15. It is further argued by the appellants that the trial court erred in roping in the entire family of the husband, including his elderly parents and brothers, without any specific or distinct roles being attributed to them.

In this regard, it appears to the court that in traditional Indian joint families residing under a common roof, demands for dowry and subsequent domestic harassment are frequently executed collectively, creating a hostile environment for the newly wedded bride. The complainant has named all the appellants and asserted that they collectively participated in the demands for a Scorpio car and the ultimate act of physical expulsion. Since the appellants failed to lead any evidence to prove their separation in mess or residence, or to disprove their presence at the shared household, their generalized denial in the memo of appeal carries no weight against a sworn affidavit. The protection orders passed under Section 18 are merely preventive and defensive in nature, directing the appellants to refrain from domestic violence. Such an order inflicts no civil or criminal penalty upon a law-abiding citizen, but merely reinforces the rule of law. Hence, no prejudice can be said to have been caused to the relatives by the affirmation of the protection order.

16. Regarding the quantum of compensation of ₹20,000 awarded under Section 22 and the residential order under Section 19, the findings of the trial court are fully consistent with the economic status of the parties. The husband is stated to have access to agricultural income and rental properties, with a monthly income of ₹55,000, which has not been disproved by any documentary evidence or income tax returns from his side. In contrast, the wife is an unemployed intermediate pass, driven out to survive at the mercy of her aging father. An award of ₹20,000 as a one-time compensation for the severe mental and physical trauma of being abandoned on a road in nothing but wearing apparel is exceptionally reasonable, if not conservative. The residential order directing the husband to provide an alternative accommodation of the same standard or ensure shelter in the shared household is a statutory right guaranteed to an aggrieved woman under Section 19 of the Act, which cannot be denied on the whimsical plea of matrimonial discord.
17. The argument that the trial court showed undue haste on 16.10.2025 by rejecting their appearance application and pronouncing the judgment on the same day must also be rejected. The record reveals that the case had been pending for nearly three years since its institution in 2022. The appellants chose to sleep over their rights for years, ignoring notices and allowing the matter to reach the advanced stage of final arguments and judgment. A party that treats judicial processes with casual indifference cannot expect the court to suspend its operations

the moment they choose to walk into the courtroom with a *Vakalatnama* at the final hour. The trial court exercised its lawful discretion to prevent the stalling of a summary proceeding intended for the protection of women, and such a balanced approach cannot be termed as a failure of justice.

18. On a complete and exhaustive evaluation of the factual matrix, the oral and documentary records, and the applicable legal principles, this court arrives at the inescapable conclusion that the prosecution/complainant successfully proved the existence of domestic violence within a shared household beyond any reasonable doubt before the court below. The trial court's judgment is grounded on a correct appreciation of the un-rebutted evidence and strictly conforms to the established legal tenets governing matrimonial protection laws. The appellants have failed to project any cogent, compelling, or legally sound reasons to disturb the findings of the court below. The appeal is completely devoid of substance and is liable to be dismissed, and the impugned judgment and order of conviction and liability must be affirmed in full to subserve the ends of justice.

ORDER

The present criminal appeal is hereby **dismissed**, and the judgment and order of conviction and sentence dated 16.10.2025 passed by the learned Civil Judge (Junior Division) / Fast Track Court (Crime Against Women), Etah, in Complaint Case No. 1912/2022 (Smt. Hema v. Harendra and Others), are hereby affirmed in their entirety.

Let a copy of this judgment along with the trial court record be sent back to the learned trial court forthwith for necessary compliance and execution.

Let the record of the Appeal be consigned to record room.

Date: 10.07.2026

(Smt. Manisha)
A.D.J. Court No.-1,
Etah

This judgment is signed and pronounced in open court today

Date: 10.07.2026

(Smt. Manisha)
A.D.J. Court No.-1,
Etah