

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

CMPMO No. 186 of 2024 a/w CMPMO
No. 576 of 2023

Reserved on: 14.07.2026

Date of decision: 22.07.2026.

1. CMPMO No. 186 of 2024

Harpreet

...Petitioner.

Versus

Anil Kumar

...Respondent.

2. CMPMO NO. 576 of 2023

Anil Kumar

...Petitioner.

Versus

Harpreet

...Respondent.

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

*Whether approved for reporting?*¹

For the petitioner : Mr. Vijay Singh Thakur, Advocate,
for the petitioner in CMPMO No.
186 of 2024 and for the respondent
in CMPMO No. 576 of 2023.

For the respondent : Mr. Neel Kamal Sharma, Advocate,
for the respondent in CMPMO No.
186 of 2024 and for the petitioner
in CMPMO No. 576 of 2023.

Romesh Verma, Judge:

The instant petitions arise out of the judgment as
passed by the learned Sessions Judge, Hamirpur, dated

¹ **Whether reporters of Local Papers may be allowed to see the
judgment?**



08.12.2021, whereby the appeal filed by the respondent-husband was partly allowed and the order of learned Additional Chief Judicial Magistrate Court No.1, Hamirpur, in DV Petition No. 08 of 2016, titled as Harpreet vs. Anil Kumar, was upheld, except the direction given to the appellant to return the articles as mentioned in the list, Ext. PW3/A to the present petitioner-wife.

2. The facts as emerge in the present case are that a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005, was filed by the petitioner-wife, before the learned Additional Chief Judicial Magistrate Court No. 1, Hamirpur, on the ground that marriage between the parties was solemnized in the month of December 2009, and one child, namely Piyush was born out of the said wedlock. It was alleged that after some time of the marriage, the respondent started torturing and beating the petitioner-wife, under the influence of liquor and threatened to eliminate her. It was stated that the respondent-husband started leveling aspersions on the character and conduct of the petitioner and forced her to watch obscene pictures and she was prevented from meeting her parents and relatives. It was stated that respondent-husband started proclaiming that he will take



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divorce from her and solemnize second marriage. As per the case of the petitioner-wife, it was stated that the respondent-husband has not provided any maintenance to the petitioner-wife and the child after February 2016 and he demanded dowry articles. As per petitioner, the respondent-husband pressurized her to get the second floor of her parental house transferred in his name.

3. The case as set up by the petitioner-wife was refuted by the respondent-husband, by raising preliminary objections with respect to the maintainability and estoppel etc. On merits, all the averments as made in the petition were denied and refuted. It was stated that he never gave beatings to the wife under the influence of liquor and she was never threatened with the dire consequences. It was denied that the wife was harassed sexually and that he never committed forcible sex with the petitioner-wife. It was stated that the wife was never subjected with pornography material by the respondent as alleged in the petition.

4. As per the case of the respondent-husband, the wife was treated nicely and she was never teased or taunted for bringing less dowry. He never forced her to give divorce. As per the case of the husband-respondent, on 15.02.2016, the



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petitioner-wife left her matrimonial house and went to her parents by telling the respondent that she will come back after two days, but she did not turn up. Rather, on 18.02.2016, she came in a vehicle and took all her belongings, gift items and jewellery etc., to her parent's house and when she was asked by the parents of the respondent-husband, she told them that she will never come back to her matrimonial house. As per the respondent-husband, he moved an application to the Panchayat on 26.02.2016 and he also visited the parents of the wife along with the Panchayat members, but she refused to come back. It was told by her that she will come back on 27.02.2016, but she did not come back and on 28.02.2016, the husband again went to bring her back, but she refused to accompany him. The petitioner-wife told the husband that she will not live in the company of the respondent-husband in any manner.

5. It is the case of the respondent-husband that at one occasion, the petitioner-wife and her mother came to the workplace of the respondent-husband and they abused and threatened him and also his brother with dire consequences and thereafter they both again came to the house of the respondent-husband and took Rs. 43,000/- from him.



Thereafter, he moved an application to the Women Cell against the wife and her mother and the respondent was summoned and then it was intimated by the petitioner-wife that she does not want to live with the respondent and she wants divorce from the husband.

6. Thereafter, the respondent-husband filed a petition under Section 9 of the Hindu Marriage Act, 1955 against the petitioner-wife to join his company to which she refused. All the averments as made in the petition were refuted and denied by the respondent-husband and prayed for the dismissal of the petition as filed by the petitioner-wife.

7. The learned Additional Chief Judicial Magistrate Court No.1, Hamirpur, partly allowed the petition as filed by the wife and the respondent-husband was restrained from committing any act of domestic violence against the petitioner-wife. Further, the husband was directed to pay maintenance allowance of Rs. 2,000/- to the petitioner-wife and Rs. 1,000/- to the child per month from the date of filing the complaint, subject to adjustment of interim maintenance allowance paid in the case. Further, the learned trial court directed the respondent-husband to return the *Istri Dhan* mentioned in list of articles, Ext. PW3/A, to the petitioner-wife. The husband was



directed to secure same level of alternate accommodation to the wife as enjoyed by her in the shared household or to pay rent for the same.

8. Feeling aggrieved by the order as passed by the learned Additional Chief Judicial Magistrate Court No. 1, Hamirpur, dated 21.01.2021, the husband-respondent filed an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 in the court of learned Sessions Judge, Hamirpur, on 09.02.2021. The learned First Appellate Court, vide its impugned judgment dated 08.12.2021, partly accepted the appeal filed by the husband and upheld the order of the learned Additional Chief Judicial Magistrate except the direction given to the husband to return the articles mentioned in the list, Ext. PW3/A, to the wife and to this extent, the order as passed by the learned trial court was set aside.

9. Feeling dissatisfied against the impugned judgment as passed by the learned Sessions Judge, Hamirpur, dated 08.12.2021, both petitioner-wife and the respondent-husband, have instituted the present petitions under Article 227 of the Constitution of India.

10. It is contended by the learned counsel for the petitioner-wife that the findings as returned by the learned First



Appellate Court, whereby the direction to return the articles mentioned in the list Ext. PW3/A to the wife has been set aside, are erroneous and liable to be quashed and set aside. He submits that the said findings are beyond the record. Therefore, after accepting the present petition, the said order may be quashed and set aside and on the basis of the list, Ext. PW3/A, the *Istri Dhan* may be ordered to be returned to her.

11. On the other hand, respondent-husband has filed an independent petition under Article 227 of the Constitution of India on the ground that the judgment of the learned trial court, whereby the respondent-husband, has been restrained from committing any act of domestic violence against the complainant and further direction to pay maintenance allowance of Rs. 2,000/- to the petitioner-wife and Rs. 1,000/- to the child per month from the date of the filing of the complaint, subject to adjustment of interim maintenance and further, the order, whereby he has been directed to provide alternate accommodation to the petitioner-wife, as enjoyed by her in the shared household or to pay rent for the same, is erroneous and liable to be quashed and set aside.

12. Since both the petitions arise out of the same impugned judgment as passed by the learned Sessions Judge,



Hamirpur, therefore both the petitions are taken up together for determination and adjudication.

13. I have heard the learned counsel for the parties and have also gone through the record.

14. In the present case, the petitioner-wife had filed a complaint before the Protection Officer. The Domestic Incident Report was filed on the basis of the complaint filed by the petitioner-wife against the respondent-husband. As per the case as set up by the petitioner-wife, the marriage between the parties was solemnized in the month of December 2009 and one child namely Piyush was born out of the said wedlock. The relations between the parties remained cordial for some time and thereafter the respondent started beating the petitioner-wife under the influence of liquor and also threatened to eliminate her. He started leveling false allegations on the character and conduct of the petitioner. He also forced her to look obscene pictures/movies. The husband started demeaning and humiliating the wife. He failed to maintain the wife and child after February, 2016. He also demanded dowry and pressurized the wife to get the second floor of her parental house transferred in his name.



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15. All the allegations as made in the complaint were refuted and denied by the respondent-husband. It is the case of the respondent that he never sexually assaulted his wife nor demanded any dowry from her in any manner. It is a case of the husband that she was well maintained by him and he provided her all the facilities and basic necessities as required in life. He never threatened to give divorce to her. Rather, on 15.02.2016, the petitioner-wife left her matrimonial house after assuring the respondent that she will come back. On 18.02.2016, she came in a vehicle and took all her belongings including jewellery etc. to her parental house. Though, the husband had filed an application before the Panchayat, however, she failed to accede to the request of the husband and did not turn up to her matrimonial house. Thereafter, various attempts were made by the respondent-husband to bring her back, however, on one pretext or the other, she failed to do so. It is further the case of the respondent that at one occasion, the petitioner and her mother came to his workplace and took away Rs. 43,000/- from him under threat. He stated that he had filed an application before the Women Cell and when the petitioner and her mother were called for inquiry, the petitioner expressed her intention to take divorce from the respondent-husband.



She had made this statement on 26.05.2016 in the presence of her brother and mother. Though, the respondent had filed a petition under Section 9 of the Hindu Marriage Act for the restitution of conjugal rights, but she refused to join the company of the husband on one pretext or the other.

16. It is the case of the respondent-husband that he is working in a lab and getting salary of Rs. 5,000/- per month only. Therefore, he prayed that the petition as filed by the petitioner-wife may be dismissed.

17. In order to corroborate the case, the petitioner examined her mother Jasdeep Kaur. In her deposition, she stated that the petitioner is her daughter and she got married with Anil Kumar in the year 2009. Out of the wedlock son Piyush was born and he is seven years old. She stated that her daughter was ill-treated and beaten up by the respondent and he used to say that she should bring money from her mother. She stated that for the last two years her daughter is residing with her and she is maintaining and looking after her daughter/petitioner and her son. She stated that her son-in-laws having a lab, which is known as Jai Diagnostic which is situated adjacent to Regional Hospital, Hamirpur. She stated that the monthly income of her son-in-law is Rs. 50,000/- to



Rs. 60,000/- per month. In her cross-examination, she stated that after the marriage, her daughter remained with her son-in-law for about six months. She admitted that till the time her daughter resided with the respondent, he used to give all the expenses including maintenance to her. She stated that till 14.02.2016, her daughter was residing with her. She stated that Ext. PW-1/A has been signed by her and encircle 'A' bears her signatures and the signatures of her daughter are encircled at 'B' in Ext. PW-1/B. She denied that her daughter says that she intends to take divorce from her husband. She admitted that her daughter did her 10+2 after the marriage and she also did her beauty parlour course. She admitted in her cross-examination that her daughter went to the house of her son-in-law on 18.02.2016 and she did not bring back her jewellery. She admitted that in the Court of learned Additional District Judge, the respondent had filed a case for restitution of conjugal rights. She denied that the present case has been filed just to extract money from the respondent.

18. The petitioner Harpreet Kaur herself entered into the witness box as PW-3. She reiterated all the averments as made in the petition. She stated that in the month of December, 2009, the parties got married and out of the wedlock, son



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Piyush who is seven years old was born. She stated that since the year 2016, she is residing separately from the husband as he used to torture and maltreat her. She stated that her husband used to insult her in the presence of other and he used to taunt her for bringing insufficient dowry from her parents. She stated that her husband used to show her pornographic movies in his shop and in his house on his computer. She stated that her husband used to say that the second floor being owned by her mother should be named after him. She stated that her husband earns about rupees one lakh per month. She stated that her husband had taken the rented shop from Amrit Lal Chopra and the Rent Deed is Mark 'A'.

19. In her cross-examination, she denied that till the time she resided in the family of her in-laws, she was maintained and looked after by her husband. PW-3 stated that her mother used to maintain her. She stated that her mother is getting Rs. 20,000/- as pension and out of the same, the EMI of house loan is being paid. She stated that she is not ready to live with her husband. She admitted that on 26.02.2016, her husband Anil Kumar called the Panchayat and Ex-Pradhan Naresh Kumar along with his wife came to take her back. However, she denied that she refused to come back along with



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her husband. She admitted that on Ext. PW-1/B encircle 'B', she appended her signatures. She denied that she is working as a Lab Assistant in Hamirpur hospital. Lastly, she admitted that she does not want to live in the house of the respondent-husband.

20. PW-4 is the statement of Naresh Kumar, who had brought the record with respect to license No. HMR/1/237/11. He stated that the said license has been issued in the name of the respondent-husband and its proprietor is Anil Kumar and the said shop is known by the name of Jai Diagnostic and the said shop has been registered in the name of Jai Diagnostic.

21. In order to rebut the evidence as led by the petitioner-wife, the respondent examined RW-1 Naresh Kumar, who stated in his deposition that from the years 2001 to 2015, he remained the Pradhan of the Gram Panchayat Sasan. The parties were residing in the said Panchayat. He stated that the marriage between the parties was solemnized in the year 2009. After the marriage, they used to live in their village, Pantedi. The petitioner-wife used to reside with her in-laws and after some time, the in-laws gave separate room to them and their kitchen was also separated. He stated that after some time, the wife left the company of her husband and she started residing



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in the house of her mother. On 26.02.2016 he along with his wife and members of the Gram Panchayat, went to the house of petitioner-wife. He stated that they were taken by the respondent-husband to the house of the petitioner-wife. On this, the petitioner had assured that she will return back on Sunday, however, she never returned. He further stated that again on 28.02 2016, he along with respondent-husband went to the house of the petitioner and they tried to make her understand and asked her to come back to the house of her in-laws. However, she flatly refused to do so. Thereafter, the respondent-husband made a complaint to the Women Cell on 26.05 2016 and he requested the Women Cell to direct her wife to join his company and before the Women Cell, they tried to prevail upon the petitioner-wife and to make her understand that she should live in the company of her husband. However, she flatly refused to join the company of her husband. She further stated that she will take divorce from him. RW-1 stated that on 26.02 2016 and 26.05.2016 the wife stated that her husband did not maintain her or gave her maintenance amount. She did not inform that the husband inflicts cruelties on her.

22. RW-2 is the statement of Pawan Kumar. He has



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reiterated on the same lines as has been expressed by RW-1. In his deposition, he stated that he never heard that after the marriage, Anil Kumar inflicted beatings to his wife. He stated that the petitioner and the respondent both used to work in a lab and they used to come and go back from the said lab together. In his cross-examination, he denied that Anil Kumar used to torture his wife after consuming liquor. He denied that Anil Kumar is running a lab by the name of Jai Diagnostic in Hamirpur.

23. RW-3 is the statement of Satish Kumar. He stated that he is running a tea shop just opposite to the Government Hospital, Hamirpur. He stated that he knew the petitioner and the respondent. He stated that both of them used to work in Jai Lab and he never saw any differences between them. He stated that they used to live together in a proper manner. He stated that on 18.02.2016, when he was coming back to his house, Harpreet met her at Bhota Chowk and requested him to leave her at her home. He took Harpreet to the house of her in-laws and after reaching the house, she asked him to wait for some time. Thereafter, she packed two to three bags and stated that she intends to go to the house of her mother. When the parents of the husband asked her that after taking bags where



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is she going, then she stated that she is leaving the house because of her own wish and will and thereafter, she left the house of her in-laws.

24. Respondent-husband Anil Kumar has filed his affidavit Ext. RW-4/A and reiterated all the averments as made in the reply. He stated that he used to maintain and look after the present petitioner and never ill-treated or neglected her in any manner. He stated that he permitted the petitioner to complete her computer course and to complete her 10+2 examination. He further stated that the petitioner had also done a course in beauty parlour. He stated that he never ill-treated or gave beatings to his wife. On 15.02.2016, she stated that she is going to her parental house and she will return back. However, on 18.02.2016, the petitioner came in a vehicle along with her son and thereafter, she took all her belongings including jewellery etc. and on the asking of parents of the respondent, she stated that she will never come back to their house. Thereafter, with the assistance and aid of the Pradhan of the Gram Panchayat along with the members, they went to the house of the wife. However, they were told that she will come back on 27.02.2016. Again on 28.02.2016, he went to the house of the petitioner and they refused to send her along



with him. His wife flatly refused to live along with him. She stated that she will reside with her mother. He stated that he made a complaint to the Women Cell and there both the parties were summoned and there the petitioner had stated that she does not want to live with the respondent-husband and she wants divorce from him. The said statement was made by the petitioner on 26.05.2016. In June 2016, she filed a case under the provisions of Domestic Violence Act. He further stated that the petitioner-wife had instituted a petition under Section 125 of Cr.PC in the court of learned Judicial Magistrate 1st Class Court No.3, Hamirpur for grant of maintenance. In the cross-examination, the petitioner could not extract anything favorable from this witness.

25. The petitioner has placed on record copy of complaint Ext. PW-1/A, dated 05.06.2016. The copy of the statement as made by the petitioner before the Women Cell is Exhibit PW-1/B. To the similar extent, the statement of the husband-respondent is Ext. PW-1/C.

26. The learned Trial Court had allowed the petition filed by the petitioner-wife by restraining the respondent from committing any act of domestic violence against her. Further, the respondent was directed to pay maintenance allowance of



Rs. 2,000/- to the petitioner-wife and Rs. 1,000/- to the child per month from the date of filing of the complaint, subject to adjustment of the interim maintenance. The learned trial Court further directed the respondent-husband to return the *Istri Dhan* as mentioned in the list of articles Ext. PW-3/A. Further, the respondent-husband was directed to secure same level of alternate accommodation to the petitioner-wife as enjoyed by her in the shared household or to pay rent for the same.

27. The learned First Appellate Court partly accepted the appeal as preferred by the husband by setting aside the order whereby direction was given to the husband to return the *Istri Dhan*.

28. It is contended by the learned counsel for the petitioner-wife that the learned First Appellate Court has not appreciated Ext. PW-3/A. He submits that as per Ext. PW-3/A, the details of the articles which were given by her parents in the marriage should be returned to her and the findings as returned by the learned First Appellate Court, whereby the order of learned trial Court has been reversed in a cursory manner by the learned First Appellate Court.

29. On the other hand, it is contended by the learned counsel for the respondent-husband that no reliance can be



placed upon Ext. PW-3/A, as neither it has been specifically pleaded in the petition nor proved in accordance with the law. He submits that the document is forged, fabricated and incorrect and no reliance can be placed on the same. Perusal of the document Ext. PW-3/A reveals that the detail of the articles has been provided from Sr. No. 1 to 28.

30. In order to substantiate the said document and the assertions of return of *Istri Dhan*, no iota of evidence has been led by the petitioner-wife. Neither any bill nor voucher has been placed on record to corroborate that during the solemnization of the marriage, such articles were given by the parents of the petitioner to her. No independent witness has been examined or called in order to prove the case of the present petitioner. This document is handwritten and the details of the articles have been mentioned therein, which have been totally refuted by the respondent-husband.

31. It is a case of the respondent that the said articles were purchased by him. It is an admitted fact that the parties solemnized marriage in the year 2009 and document Ext. PW-3/A has been prepared on 16.07.2016 i.e. after lapse of more than seven years. Except this document, nothing has been placed on record to show by means of any receipts or bills



that the articles were purchased by the parents of the petitioner at the time of her marriage.

32. The learned First Appellate Court has rightly quashed and set aside the findings of the learned trial Court qua this aspect and this Court is in agreement with such findings and it does not call for any interference in any manner. The learned First Appellate Court has rightly appreciated the point in controversy and come to the conclusion that the findings as returned by the learned trial Court, whereby it has ordered to return the *Istri Dhan*, are without any basis. Consequently, the said findings as returned by the learned First Appellate Court are affirmed.

33. As far as the petition as filed by the respondent-husband assailing the judgment as passed by the learned trial Court as well as the learned First Appellate Court, whereby the amount of maintenance has been ordered to be granted to the petitioner-wife at the rate of Rs. 2,000/- and to the child at the rate of 1,000/- is concerned, it has been contended by the learned counsel for the respondent-husband that the learned Sessions Judge has not taken into consideration the fact that in the proceeding under Section 125 Cr.PC, the petitioner-wife has already been awarded a sum of Rs. 7,500/- per month and a



sum of Rs. 3,500/- has been awarded to the child. He submits that while assessing the maintenance amount at the rate of Rs. 2,000/- and Rs.1,000/- to the petitioner and the child respectively, the learned courts below have not taken into consideration the fact that already the respondent is paying Rs. 11,000/- to his wife and child in proceedings under Section 125 of Cr.PC. He submits that the courts below ought to have taken this fact into consideration while assessing the amount of maintenance.

34. The learned counsel for the husband has drawn the attention of this Court to the documents as placed on record in CMPMO 186 of 2024, which reveal that the present respondent-husband has purchased land from Sh. Mahender Singh for a total sale consideration of Rs. 6,84,000/- on 16.03.2016.

35. The attention of this Court has also been drawn to the photographs which have been placed on record along with the petition, showing that a two storied house has been built by the respondent-husband. Therefore, it cannot be held at any cost that the income of the respondent is only Rs. 5,000/- per month.

36. It is contended by the learned counsel for the petitioner-wife that the respondent is running a lab by the



name of Jai Diagnostic and earning more than rupees one lakh from the said lab. It is the case of the parties that the child is of growing age and he is studying in a school and admittedly lot of expenses has to be incurred to maintain the child. Therefore, in the present proceedings, it cannot be held by any stretch of imagination that grant of Rs. 2,000/- to the wife and Rs. 1,000/- to the child is exorbitantly on a higher side.

37. This Court is in agreement with the submission of the learned counsel for the petitioner-wife that the husband has purchased land from Mahender for a sum of Rs. 6,84,000/- and he has raised the construction of a two-storied house. Therefore, it cannot be presumed that his income is only Rs. 5,000/- per month.

38. Keeping in view the attending facts and circumstances of the case, this Court is of the considered opinion that both the learned courts below have rightly assessed the amount of maintenance to the tune of Rs. 2,000/- to the wife and Rs. 1,000/- to the child and this Court does not see any infirmity or illegality in the same.

39. As far as the findings as returned by the learned courts below with respect to the domestic violence, there is ample evidence on record which corroborates her case that



certainly domestic violence took place against the petitioner.

From the testimony of PW-2, Jasdeep Kaur, mother of the petitioner and PW-3, Harpreet Kaur, petitioner, it has been established that the wife was subjected to domestic violence. The petitioner, in order to corroborate her case also placed on record a copy of complaint and as held by the learned courts below, presently she is residing with her parents and the respondent has failed to maintain her. Therefore, the findings as returned by the learned courts below with respect to the passing of the maintenance amount, restraining the husband from committing any act of domestic violence and the direction to secure same level of alternate accommodation to the petitioner as enjoyed by her in the shared household or to pay rent for the same, do not call for any interference. Both the courts below have rightly come to the conclusion that she is entitled for protection under the provisions of Domestic Violence Act and in the considered opinion of this Court, no interference of any kind is required in the same.

40. The Hon'ble Apex Court has held that DV Act, 2005 is a welfare legislation specifically enacted to give justice to those women who suffer from domestic violence and for preventing acts of domestic violence. Therefore, while



exercising the jurisdiction under Section 482 of Cr.PC 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.

41. The Honorable Apex Court in **Saurabh Tripathi vs. Vidhi Dhawan, 2025 SCC Online Supreme Court 1158**, has held as follows:-

“34. We have already referred to the objects and reasons of the DV Act, 2005, which are reproduced in the decision of this Court in the case of Kunapareddy alias Nookal a Shankha Balaji v. Kunapareddy Swarna Kumari and Anr⁴. The basic object of the DV Act, 2005, is to protect women from being victims of domestic violence and also to prevent the occurrence of domestic violence in society. It seeks to protect the right of women to reside in their matrimonial home or shared household. Therefore, there is a provision for passing a Residence Order under Section 19. Section 18 provides for granting Protection Orders, which are essentially to prevent the commission of acts of domestic violence against women. The orders which can be passed under Section 20 are with the object of compensating a woman for loss caused due to domestic violence. The custody orders regarding children are also essentially to prevent domestic violence. Even Section 22 provides for passing compensation orders for the injuries, including mental torture and emotional distress, caused by acts of domestic violence. If a complaint is entertained under Section 12(1), the erring respondent cannot be punished as is understood in criminal law. He can be subjected to various orders as provided in Sections 18 to 23. A respondent in the application can be prosecuted only if he commits a breach of a



protection order or an interim protection order. Therefore, the consequences of entertaining an application under Section 12(1) are not as drastic as the consequences of setting criminal law in motion. No doubt, orders that can be passed under the DV Act, 2005, can also be very drastic, but in proceedings under Section 12(1), a respondent cannot be sentenced to suffer imprisonment or a fine as in a criminal trial.

35. When it comes to exercise of power under Section 482 of the CrPC in relation to 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 for preventing 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.”

42. In **Krishna Bhattacharjee vs. Sarathi Choudhury, 2016 Volume 2 SCC 705**, the Hon’ble Apex Court has held as follows:-

“2. Prior to the narration of facts which are essential for adjudication of this appeal, we may state that the 2005 Act has been legislated, as its Preamble would reflect, to provide for more effective protection of the rights of the women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters



connected therewith or incidental thereto. The 2005 Act is a detailed Act. The dictionary clause of the 2005 Act, which we shall advert to slightly at a later stage, is in a broader spectrum. The definition of “domestic violence” covers a range of violence which takes within its sweep “economic abuse” and the words “economic abuse”, as the provision would show, has many a facet.

3. Regard being had to the nature of the legislation, a more sensitive approach is expected from the courts where under the 2005 Act no relief can be granted, it should never be conceived of but, before throwing a petition at the threshold on the ground of maintainability, there has to be an apposite discussion and thorough deliberation on the issues raised. It should be borne in mind that helpless and hapless “aggrieved person” under the 2005 Act approaches the court under the compelling circumstances. It is the duty of the court to scrutinise the facts from all angles whether a plea advanced by the respondent to nullify the grievance of the aggrieved person is really legally sound and correct. The principle “justice to the cause is equivalent to the salt of ocean” should be kept in mind. The court of law is bound to uphold the truth which sparkles when justice is done. Before throwing a petition at the threshold, it is obligatory to see that the person aggrieved under such a legislation is not faced with a situation of non-adjudication, for the 2005 Act as we have stated is a beneficial as well as assertively affirmative enactment for the realisation of the constitutional rights of women and to ensure that they do not become victims of any kind of domestic violence.”

43. The law as enunciated by the Hono’ble Apex Court clearly reveals that the Act is a welfare legislation specially enacted to give justice to those women who suffer from domestic violence and for preventing the acts of the domestic



violence.

The evidence as led by the petitioner wife, in conjunction with the documents as placed on record, has led to the passing of the impugned judgments by the learned courts below. This Court does not find any perversity or illegality in the same. Therefore, both the petitions deserve to be dismissed. Even otherwise, the Hon'ble Apex Court has repeatedly held that the scope of interference while exercising the power under Article 227 of the Constitution of India is very limited.

44. The power under Article 227 is limited to see that the Courts below function within the limits of their authority or jurisdiction. The High Court cannot interfere with the findings of fact recorded by the subordinate Court or Tribunal while exercising its jurisdiction under Article 227. The Hon'ble Apex Court has held that, over the last 50 years, it has consistently been observed that the limited jurisdiction of the High Court under Article 227 cannot be exercised by interfering with findings of fact or by setting aside the judgments of the courts below on merits.

45. Hon' ble Apex Court in **Civil Appeal No. 2226 of 2010**, titled **State of Haryana & others** vs. **Manoj Kumar**, decided on 09.03.2010 has held as follow:-



"23. More than half a century ago, the Constitution Bench of this court in Nagendra Nath Bora and Another v. Commissioner of Hills Division and Appeals, Assam & Others AIR 1958 SC 398 settled that power under Article 227 is limited to seeing that the courts below function within the limit of its authority or jurisdiction.

24. This court placed reliance on Nagendra Nath's case in a subsequent judgment in Nibaran Chandra Bag v. Mahendra Nath Ghughu AIR 1963 SC 1895. The court observed that jurisdiction conferred under Article 227 is not by any means appellate in its nature for correcting errors in the decisions of subordinate courts or tribunals but is merely a power of superintendence to be used to keep them within the bounds of their authority.

25. This court had an occasion to examine this aspect of the matter in the case of Mohd. Yunus v. Mohd. Mustaqim & Others (1983) 4 SCC 566. The court observed as under:-

"The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is limited "to seeing that an inferior Court or Tribunal functions within the limits of its authority," and not to correct an error apparent on the face of the record, much less an error of law. for this case there was, in our opinion, no error of law much less an error apparent on the face of the record. There was no failure on the part of the learned Subordinate Judge to exercise jurisdiction nor did he act in disregard of principles of natural justice. Nor was the procedure adopted by him not in consonance with the procedure established by law. In exercising the supervisory power under Article 227, the High Court does not act as an Appellate Court or Tribunal. It will not review or reweigh the evidence upon which the determination of the inferior court or tribunal purports to be based or to correct errors of law in the decision."



26. This court again clearly reiterated the legal position in *Laxmikant Revchand Bhojwani & Another v. Pratapsing Mohansingh Pardeshi* (1995) 6 SCC 576. The court again cautioned that the High Court under Article 227 of the Constitution cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes.

27. A three-Judge Bench of this court in *Rena Drego (Mrs.) v. Lalchand Soni & Others* (1998) 3 SCC 341 again abundantly made it clear that the High Court cannot interfere with the findings of fact recorded by the subordinate court or the tribunal while exercising its jurisdiction under Article 227. Its function is limited to seeing that the subordinate court or the tribunal functions within the limits of its authority. It cannot correct mere errors of fact by examining the evidence and reappreciating it.

28. In *Virendra Kashinath Ravat & Another v. Vinayak N. Joshi & Others* (1999) 1 SCC 47 this court held that the limited power under Article 227 cannot be invoked except for ensuring that the subordinate courts function within its limits.

29. This court over 50 years has been consistently observing that limited jurisdiction of the High Court under Article 227 cannot be exercised by interfering with the findings of fact and set aside the judgments of the courts below on merit.”

46. To the similar extent, the Apex Court in **Civil Appeal No. 3072 of 2022**, titled as **Ibrat Faizan vs. Omaxe Buildhome Private Limited**, decided on 13.05.2022 has held as follows:-

“14. In view of the above, in the present case, the High Court has not committed any error in entertaining the writ petition



under Article 227 of the Constitution of India against the order passed by the National Commission which has been passed in an appeal under Section 58 (1) (a) (iii) of the 2019 Act. We are in complete agreement with the view taken by the High Court. However, at the same time, it goes without saying that while exercising the powers under Article 227 of the Constitution of India, the High Court subjects itself to the rigour of Article 227 of the Constitution and the High Court has to exercise the jurisdiction under Article 227 within the parameters within which such jurisdiction is required to be exercised.

14.1 The scope and ambit of jurisdiction of Article 227 of the Constitution has been explained by this Court in the case of Estralla Rubber v. Dass Estate (P) Ltd., (2001) 8 SCC 97, which has been consistently followed by this Court (see the recent decision of this Court in the case of Garment Craft v. Prakash Chand Goel, 2022 SCC Online SC 29). Therefore, while exercising the powers under Article 227 of the Constitution, the High Court has to act within the parameters to exercise the powers under Article 227 of the Constitution. It goes without saying that even while considering the grant of interim stay/relief in a writ petition under Article 227 of the Constitution of India, the High Court has to bear in mind the limited jurisdiction of superintendence under Article 227 of the Constitution. Therefore, while granting any interim stay/relief in a writ petition under Article 227 of the Constitution against an order passed by the National Commission, the same shall always be subject to the rigor of the powers to be exercised under Article 227 of the Constitution of India.”

47. The Courts below have rightly determined the points in controversy after taking into consideration the material placed on record. There is no error, infirmity, or jurisdictional error in the same.



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48. Consequently, the present petitions, being devoid of any merit, deserve to be dismissed and are accordingly dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

22ND July, 2026.
(kck)