

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MMO No. 224 of 2026****Reserved on: 24.03.2026****Date of Decision: 06.05.2026**

Ashwani Mahajan & another	...Petitioners
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Versus

State of H.P. & others	...Respondents
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*Coram****Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting? No.***

For the Petitioner	:	Mr Ganesh Barowalia, Advocate.
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For the respondents No. 1 /State	:	Mr Lokender Kutlehira, Additional Advocate General.
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Rakesh Kainthla, Judge

The petitioners have filed the present petition for quashing of the proceedings in case No. DV Act/64/2025, pending before learned Additional Chief Judicial Magistrate at Palampur, District Kangra, H.P. (learned *Trial Court*). (*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 complainants filed a complaint under sections 12, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (D.V. Act) before the learned Trial Court. It was asserted that complainant No.1 (Suruchi) is the legally wedded wife of respondent No.1. The marriage between the parties was solemnised in the year 2022 as per Hindu rites and customs. The respondents started harassing the complainant without any reasonable cause. They did not pay her any money to meet her daily expenses. They beat, abused, taunted and harassed the complainant. Complainant No.1 tolerated their behaviour with the hope that the respondents would improve with time, but in vain. The respondents taunted complainant No.1 by saying what dowry was provided to her by her parents and relatives. Her jewellery was kept by the respondents, and she had to ask for the jewellery to attend the marriages. Respondent No. 3 did not provide a mangalsutra to complainant No.1, which is a symbol of marriage. Respondent No.1 used to consume liquor and give beatings to complainant No.1 on the instigation of respondents No. 2 and 3. They taunted

complainant No.1 for not giving birth to children. Therefore, a petition was filed seeking various reliefs.

3. Being aggrieved by the filing of the petition, the respondents have filed the present petition asserting that complainant No.1 filed a false and malicious complaint to harass the respondents. The respondents are residing separately from complainant No.1, and they have never shared any household with her. The complaint does not disclose any specific act of domestic violence. The allegations are vague. The complaint was filed as a counterblast to the criminal complaint filed by the respondents against the complainant about the removal of the jewellery and a civil suit for the recovery of the friendly loan of ₹2,70,000/-. Complainant No.1 reside in her place of employment and occasionally visited her matrimonial home. The allegations in the complaint, even if accepted as correct, do not constitute any domestic violence. Hence, it was prayed that the present petition be allowed and the proceedings pending before the learned Trial Court be quashed.

4. I have heard Mr Ganesh Barowalia, learned counsel for the petitioners and Mr Lokender Kutlehira, learned Additional Advocate General, for respondent No.1/State

5. Mr Ganesh Barowalia, learned counsel for the petitioners, submitted that the contents of the complaint filed before the learned Trial Court do not disclose any domestic violence. The continuation of the proceedings would amount to an abuse of the process of the Court. False allegations were made against the petitioners as a counterblast to the proceedings initiated by the respondents. Therefore, he prayed that the present petition be allowed and the proceedings pending before the learned trial Court be quashed. He relied upon the judgment of the Hon'ble Supreme Court in *Sujoy Ghosh vs. The State of Jharkhand & anr* 2026:INSC 267 in support of his submission.

6. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent State, submitted that the dispute between the parties is private in nature and the State has no submission to make in the present case.

7. I have given a considerable thought to the submissions made at the bar and have gone through the records carefully.

8. It was laid down by the Hon'ble 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.”

9. It was submitted that the allegations against the respondents are false. The complainant has filed the present

complaint as a counterblast to the proceedings initiated by the respondents against her. This submission will not help the respondents. The Court 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 Hon'ble Supreme Court in *Punit Beriwal 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.”

10. 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 or the complaint at the stage of quashing of the proceedings under Section 482 Cr. P.C. However, the allegations 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/complaint, even if taken at their face value, do not disclose 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 [*Joeph Saivaraj A. v. State of Gujarat, 2007 SCC OnLine Guj 365*] could have still examined whether the offences alleged to

have been committed by the appellant were prima facie made out from the complainant's FIR, charge sheet, documents, etc. or not.

11. It was submitted that the allegations are vague. This submission will not help the petitioners because the proceedings under the DV Act are civil in nature, as laid down by the Hon'ble Supreme Court 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. Order VI of the Code of Civil Procedure requires that only facts are required to be pleaded. In the present case, complainant No.1 had specifically stated that she was being harassed and tortured for bringing insufficient dowry. Her jewellery articles were retained by the respondents and were not returned to her. Respondent No.1 used to beat her in a state of intoxication at the instance of respondents No.2 and 3. Respondents did not provide any money to her to meet her personal needs. These allegations show the domestic violence perpetrated upon complainant No.1 by the respondents.

13. It is undisputed that the matter is pending before the Learned Trial Court. It was laid down by the Hon'ble Supreme Court in *Iqbal v. State of U.P.*, (2023) 8 SCC 734: 2023 SCC OnLine SC 949 that when the matter is pending before the learned Trial Court, it should be left to appreciate it. It was observed:

“At the same time, we also take notice of the fact that the investigation has been completed and the charge sheet is ready to be filed. Although the allegations levelled in the FIR do not inspire any confidence, particularly in the absence of any specific date, time, etc. of the alleged offences, we are of the view that the appellants should prefer a discharge application before the trial court under Section 227 of the Code of Criminal Procedure (CrPC). We say so because even according to the State, the investigation is over and the charge sheet is ready to be filed before the competent court. In such circumstances, the trial court should be allowed to look into the materials which the investigating officer might have collected, forming part of the charge sheet. If any such discharge application is filed, the trial court shall look into the materials and take a call whether any discharge case is made out or not.”

14. In *Sujoy Ghosh (supra)*, the Hon'ble Supreme Court held that there was no averment in the complaint that the film produced by the accused and written by the complainant were similar in nature, and no case was made out. In the present case, the allegations in the complaint disclose the domestic violence; hence, the cited judgment does not apply to the present case.

15. No other point was urged.
16. In view of the above, the present petition fails, and it is dismissed.
17. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing whatsoever on the merits of the main case.

06th May 2025
(ravinder)

(Rakesh Kainthla)
Judge