

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MMO No. 1060 of 2025****Reserved on: 6.11.2025****Date of Decision: 28.11.2025.**

Prateek Singh and others	...Petitioners
--------------------------	----------------

Versus

State of H.P. and another	...Respondents
---------------------------	----------------

*Coram**Hon'ble Mr Justice Rakesh Kainthla, Judge.**Whether approved for reporting?¹ No.*

For the Petitioners : Mr Ganesh Barowalia, Advocate.

For the Respondents : None.

Rakesh Kainthla, Judge

The petitioners have filed the present petition for quashing of the proceedings in the petition filed under the Protection of Women from Domestic Violence Act (DV Act) pending before the learned Additional Chief Judicial Magistrate, Dehra, District Kangra, HP. It has been asserted that petitioner No.1 is the husband of respondent No.2/aggrieved person. He is residing in Mumbai. Petitioners Nos. 2 and 3 are the sisters of petitioner No.1. Respondent No.2 filed a petition under Section 12

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

of the DV Act before the learned Chief Judicial Magistrate, Kangra, at Dharamshala, levelling false allegations to harass the petitioners. The learned Chief Judicial Magistrate, Kangra, allowed the objection raised by the petitioners regarding the lack of jurisdiction and transferred the case to the Court of the learned Additional Chief Judicial Magistrate, Dehra. Petitioners Nos. 2 and 3 are the sisters of petitioner No.1 and were unnecessarily dragged into the present proceedings. The marriage between petitioner No.1 and respondent No.2 was solemnised on 7.12.2022 at HPTDC Hotel Jawalaji as per Hindu rites and customs. The parties resided at Kolkata for a brief time and thereafter resided in Mumbai. The petitioners organised a welcome reception for respondent No.2 on 11.12.2022, but respondent No.2 refused to interact with the guests or to take family photographs. Petitioner No.1 arranged a honeymoon trip to the Andaman and Nicobar Islands, but respondent No.2 refused to communicate with petitioner No.1 or consummate the marriage. The petitioner no. 1 and respondent no. 2 went to Mumbai on 31.1.2023. She left the matrimonial home on 7.2.2023. Efforts were made to bring her back, but these were unsuccessful. Respondent No.2 filed a petition under the DV Act. Respondent No.2 never shared any household, conferring the

jurisdiction upon the Courts at Dehra. The allegations made in the complaint are false, and they do not show any incident of physical or mental violence after 2017. The parties resided at Kolkata and Mumbai, and no act had taken place in Dehra. False allegations were made against the petitioners. The learned Magistrate erred in issuing the notice. Hence, the petition.

2. Mr Ganesh Barowalia, learned counsel for the petitioners, submitted that the petition filed by respondent No.2 is not maintainable for want of territorial jurisdiction. The allegations are false and were made to harass the petitioners. The petitioners never resided in Kolkata; therefore, he prayed that the present petition be allowed and the proceedings pending before the learned Additional Chief Judicial Magistrate, Dehra, District Kangra, HP, be quashed. He relied upon the judgment of *Vijay Verma v. State NCT of Delhi and another*, AIR 2011 NOC 177 and *Sanjay D. Jain and others Vs. State of Maharashtra and others* 2025 INSC 1168 in support of his submission.

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

4. 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.”

5. Section 2(q) of the DV Act defines the respondent as any adult male person who is or has been in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under the Act. It was submitted that since the term respondent means only an adult male person, therefore, the petition could not have been filed

against petitioners No.2 and 3, who are females and not covered under the provisions of Section 2(q). This submission cannot be accepted. The Hon'ble Supreme Court examined the constitutionality of Section 2(q) in *Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 SCC 165 : (2017) 1 SCC (Cri) 1 : (2017) 1 SCC (Civ) 468: 2016 SCC OnLine SC 1118 and held that Section 2(q) has to be read down and the words adult male person are to be struck out because they are contrary to the object of protecting women who have suffered from the Domestic Violence Act of any kind. It was observed at page 197:

“39. A conspectus of these judgments also leads to the result that the microscopic difference between male and female, adult and non-adult, regard being had to the object sought to be achieved by the 2005 Act, is neither real nor substantial nor does it have any rational relation to the object of the legislation. In fact, as per the principle settled in *Subramanian Swamy v. CBI*, (2014) 8 SCC 682: (2014) 6 SCC (Cri) 42: (2014) 3 SCC (L&S) 36 judgment, the words “adult male person” are contrary to the object of affording protection to women who have suffered from domestic violence “of any kind”. We, therefore, strike down the words “adult male” before the word “person” in Section 2(q), as these words discriminate between persons similarly situated, and far from being in tune with, are contrary to the object sought to be achieved by the 2005 Act.”

6. Therefore, the submission that a complaint under the Domestic Violence Act is not maintainable against a female

cannot be accepted, and the complaint cannot be held to be bad against the petitioners.

7. It was submitted that the Court at Dehra had no territorial jurisdiction because respondent No.2 never shared any household within the jurisdiction of the Courts at Dehra. This submission cannot be accepted. Section 27 of the DV Act confers jurisdiction on the Court of Judicial Magistrate First Class within the local limits of which the aggrieved person permanently or temporarily resides or carries on a business or is employed. The petitioners have specifically mentioned in the memo of parties that respondent No. 2 is residing in the house of her parents at House No.306, Paragpur, Tehsil Dehra, District Kangra, HP. Respondent No.2 also asserted in the complaint filed under Section 12 of the DV Act (Annexure P1) in para-14 that she was working from home as a Software Engineer. Therefore, as per the averments of the present petition and the petition filed by respondent No.2, she is residing within the jurisdiction of the Courts at Dehra. Hence, the Courts at Dehra would have jurisdiction. The judgment of the Delhi High Court in *Vijay Verma* (supra) does not deal with the question of jurisdiction under Section 27 of the DV Act and will not help the petitioners.

8. It was submitted that no specific allegations were made against the petitioners. Reliance was placed on the judgment of *Sanjay D. Jain* (supra). This submission will not help the petitioners because the judgment in *Sanjay D. Jain* (supra) deals with the commission of an offence punishable under Section 498-A of IPC, which is criminal in nature, whereas the proceedings under the DV Act are civil in nature. This position was 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.”

9. In the present case, the petition filed by the respondent no. 2 contains sufficient allegations to inquire into the matter, and the allegations are to be elaborated during the trial by leading the evidence. Therefore, it is impermissible to quash the petition on the ground that sufficient details were not given by the respondent no. 2.

10. It was submitted that the allegations against the petitioners are false. The petitioners have cooperated with the respondent no. 2, and she left her matrimonial home without any

reason. This submission will not help the petitioners. 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.”

11. 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 [*Joeshph 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.

12. Once the contents of the petition filed by the respondent no. 2 are taken to be correct, they show the economic, physical, verbal and emotional abuse and *prima facie* satisfy the requirement of domestic violence. Therefore, it is impermissible to quash the proceedings.

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 charge sheet has been filed, the learned Trial Court should be left to appreciate the same. 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. A similar principle will apply to the complaint, and the complaint cannot be quashed on this consideration as well.

15. No other point was urged.

16. In view of the above, the present petition fails, and the same 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 case.

(Rakesh Kainthla)
Judge

28th November 2025
(Chander)