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# **CASE ANALYSIS: SHAURABH KUMAR TRIPATHI VS. VIDHI RAWAL 2025 SC**

AUTHORED BY - HIMANSHI GAHLAUT,  
GGSIPU, DELHI

## **INTRODUCTION**

This case is significant because it clarifies the scope of **Section 482 of the Criminal Procedure Code (CrPC)/ Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023** in relation to proceedings under **Section 12(1) of the Protection of Women from Domestic Violence Act, 2005 (DV Act)**. Contrary to earlier High Court decisions that held such proceedings to be civil in nature and therefore not subject to quashing under Section 482.

The Judgment was passed recently in 19<sup>th</sup> may 2025 by Hon'ble Supreme Court bench consisting of Hon'ble Justice ABHAY S. OKA and Hon'ble Justice Ujjal Bhuyan CRIMINAL APPEAL NO. 2688 OF 2025 (arising out of Petition for Special Leave to Appeal (Crl.) No. 9493 of 2024)].

The appellant is Shaurabh Kumar Tripathi and respondent is Vidhi Rawal.

## **FACTS**

The two connected criminal appeals challenge a common High Court order that dismissed petitions seeking to quash proceedings under Section 12 of the Domestic Violence Act, 2005. In one appeal, the appellant is the respondent's brother-in-law, while in the other, the appellants include her husband and in-laws. Vidhi Rawal married Prateek Tripathi in December 2019. In December 2021, she filed a police complaint alleging dowry harassment, followed by an FIR in January 2022 under Sections 498A, 504, 506, and 34 IPC. She alleged demands for ₹20 lakhs and a luxury SUV, along with physical and mental abuse abroad. In March 2022, she filed an application under Section 12 of the DV Act seeking relief under Sections 18 to 23. The appellants sought quashing of the DV proceedings through Section 482 CrPC, but the High Court rejected the petitions, ruling that DV Act proceedings are civil in nature and cannot be quashed using the CrPC's inherent powers.

## MAIN LEGAL ISSUE

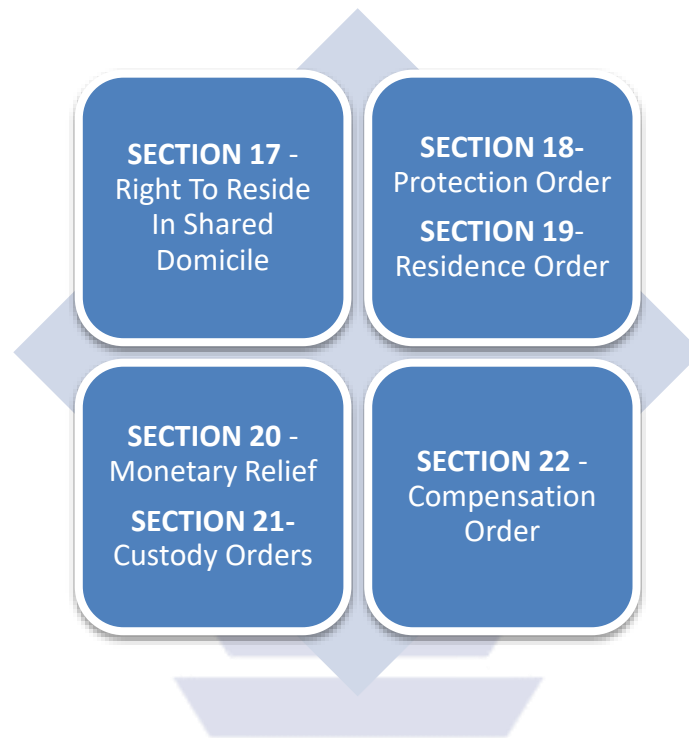
The main question involved in the appeals is whether the High Court can invoke its inherent jurisdiction under Section 482 of the Criminal Procedure Code, 1973 or Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 to quash proceedings initiated under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

## COURT'S DECISION

The Supreme Court held that High Courts can quash complaints filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005, in exercise of their inherent powers under Section 482 of the Code of Criminal Procedure (now S.528 of the Bharatiya Nagarik Suraksha Sanhita, 2003). The Supreme Court ruled that High Courts *do* have the authority to invoke **Section 482 of the CRPC** (and Section 528 BNSS) to quash proceedings arising from a **Section 12(1) application under the DV Act, 2005**, currently pending before a Magistrate. However, given the Act's protective mandate, such interference must be exercised with **restraint and circumspection**, reserved solely for situations involving **gross illegality or manifest injustice**. Consequently, the Court **set aside** the Madhya Pradesh High Court's May 9, 2024 order in cases Nos. 52308/2022 and 3363/2023, directing the petitions to be **reinstated and reheard afresh** under the clarified legal standards. The Supreme Court accordingly allowed the appeals.

## REASONING AND DECISIONS

Before arriving at this judgment, the court first discussed *why* the legislature enacted the legislation. The DV Act, 2005 was enacted with the object of providing more effective protection to the rights of women guaranteed under the Constitution who are the victims of violence of any kind occurring within the family. The DV Act, 2005, has been enacted to tackle the menace of domestic violence faced by women in our society. The court discussed **Section 3 which defines domestic violence and Section 2(f)** which defines domestic relationship as well as **Chapter IV** lays down what kind of reliefs can be granted to a person aggrieved who has been subjected to any act of domestic violence. These reliefs can be sought either by making an application under Section 12 of the DV Act, 2005 or by making an application in pending legal proceedings affecting aggrieved person before a Civil Court, Family Court or a Criminal Court. The reliefs are provided in Sections 17 to 22.



### **Section 12 application is complaint under Section 223 of BNSS or not?**

The court further discussed about whether an application made under Section 12 of Domestic Violence Act, 2005 is in nature of complaint or not. The Hon'ble Supreme Court by dwelling into the scheme of the Act and particularly looking into Section 12 Of the Act held that it is not a complaint under Section 200 of CrPC or Section 223 of the BNSS. When dealing with a complaint under Section 200 of the CrPC, the Magistrate cannot automatically take cognizance of the alleged offences complaint. The Magistrate must conduct an examination of the complainant and any witnesses to determine the truth of the claims. A process and cognizance are issued only once the Magistrate determines there is sufficient evidence to proceed against the accused. This also applies to complaint under Section 223 of BNSS. However, Section 223 of BNSS is one step ahead and laid down that It provides that no cognizance of an offence can be taken by the Magistrate without giving an opportunity of being heard to the accused. Under Section 12 of the DV Act, 2005, Sub-Section (4), the Magistrate must schedule the first hearing within three days of receiving the application. Section 13(1) states that a notice of the date set in Sub-Section (4) of Section 12 must be served on the respondent or any other person in the manner specified. Rule 2 of the DV Rules, 2006 specifies the ways for serving notices given under Section 13(1). Sub-Section (1) of Section 23 of the DV Act, 2005, a power has been conferred on the learned Magistrate to pass interim and ex-parte orders.

Court concluded an application under Section 12 of the DV Act, 2005, cannot be equated with

a complaint within the meaning of Section 200 of the CrPC (Section 223 of the BNSS).

The proceedings of an application under Sections 12 and 23 are governed by the CrPC. However, Subsection (2) of Section 28 confers overriding power on the Court to lay down its own procedure for the disposal of an application under Section 12 or under Sub-Section (2) of Section 2 the proceedings of an application under Sections 12 and 23 are governed by the CrPC. However, Subsection (2) of Section 28 confers overriding power on the Court to lay down its own procedure for the disposal of an application under Section 12 or under Sub-Section (2) of Section 2

### **Whether proceeding under Section 12 is of civil nature or criminal?**

The main question which court has to ascertain in order to answer the main legal question involved in this case was regarding The nature of proceedings under Section 12 of the D.V Act, 2005 as the learned counsel appearing for the respondent tried to rely upon the nature of proceedings under the DV Act, 2005. The respondent relied on Kunapareddy alias Nookala Shanka Balaji v. Kunapareddy Swarna Kumari and Anr and Prabha Tyagi v. Kamlesh Devi. The court categorically held in this case that 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.

These two above questions were essential to ascertain the issue of jurisdiction of the High Court under Section 482 of the CrPC or Section 528 of the BNSS in the context of quashing the proceedings initiated on an application made under Section 12(1) of the DV Act. Thus, when the question of quashing proceedings under the DV Act, 2005 pending before the learned Magistrate arises, it is for quashing of an application under Section 12(1) of the DV Act, an application under Sub-Section (1) of Section 12 is completely different from a complaint under Section 200 of the CrPC (Section 223 of the BNSS).

Section 482 of CrPC, **Saving of inherent powers of High Court.** Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The word 'Court' referred to in Section 482 is a Criminal Court within the meaning of Section

6 of CrPC which includes a Court of a Judicial Magistrate or Metropolitan Magistrate. There are two parts of Section 482. Both parts save the inherent powers of the High Court.

The first part is applicable where the power is exercised to make such orders as may be necessary to give effect to any order under ‘this Code. When the notice is issued on an application under Section 12(1), the learned Magistrate does not pass any order under the CrPC. When orders granting any of the reliefs under Sections 18 to 23 are passed, the orders of the learned Magistrate are not under the CrPC. Therefore, the first part of Section 482 cannot apply to proceedings under Section 12(1) of the DV Act, 2005.

The second part of Section 482 saves the inherent power of the High Court to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. Therefore, in a given case where a learned Magistrate is dealing with an application under Section 12(1), the High Court can exercise the power under the second part of Section 482 to prevent abuse of the process of any Court or to secure the ends of justice.

So basically the Hon’ble Supreme Court divided the Section 482 of CrPC / Section 528 of BNSS into two:



Hence, the High Court can exercise jurisdiction under Section 482 of the CrPC to quash proceedings of an application under Section 12(1) or orders passed in accordance with Sections 18 to 23 of the DV Act, 2005.

The court analyzed the **Act’s object and purpose**, applying a **harmonious interpretation** to resolve any potential conflicts between the **CrPC and the DV Act**. By doing so, it ensured that both statutes could operate together cohesively without one undermining the other. This interpretative approach not only **secured justice** in individual cases but also **strengthened the**

**DV Act's constitutional foundations.** In emphasizing its welfare-driven goals, the court reinforced the Act's role in protecting women and upholding constitutional values. This method upheld legal consistency while promoting the DV Act's broader public-interest objectives, aligned with constitutional mandates.

Therefore, Court held that 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 Court 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. The High Court power is not unlimited but controlled by the constitutional aspect of Domestic Violence Act, 2005.