



2026:CGHC:3318-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 433 of 2025

1 - Shri Prakash Singh S/o Mangal Dev Singh Aged About 46 Years

2 - Manju Singh W/o Mangal Dev Singh Aged About 47 Years

3 - Archana Singh D/o Mangal Dev Singh Aged About 42 Years

All the Petitioners reside At House No. 398, Tagore Nagar, Balia City, Balia, Uttar Pradesh Pincode- 277001

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Protection Officer, Domestic Violence (Nava Bihin) Women And Child Development Department, District- Surajpur (C.G.)

2 - Smt. Namrata Singh W/o Shri Prakash Singh Aged About 36 Years Balia, Tagore Nagar, Uttar Pradesh Present Address Village- Vishrampur, District- Surajpur (C.G.)

... Respondent(s)

For Petitioner(s) : Mr.Himanshu Pandey, Advocate

For Respondent : Mr.S.S.Baghel, Government Advocate

No.1-State

For Respondent : Mr.Anurag Singh, Advocate

No.2

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

20.01.2026

1. Heard Mr.Himanshu Pandey, learned counsel for the petitioners as well as Mr.S.S.Baghel, learned Government Advocate appearing for respondent No.1/State and Mr.Anurag Singh, learned counsel appearing for respondent No.2.

2. The petitioners have filed this petition with the following prayer:

“ A) That, this Hon’ble Court may kindly be pleased to issue a Writ/Order/Direction of the appropriate writ directing the quashing of the impugned proceedings under the Domestic Violence Act, 2005, initiated by way of undated complaint and Domestic Incident Report and Application dated 19.10.2022, as well as quash any and all proceedings and actions arising therefrom on the ground of abuse of process of law; and

B) That, this Hon’ble Court may kindly be pleased to issue a Writ/Order/Direction of the appropriate writ directing the quashing and setting aside of impugned order dated 26.11.2024 passed by the Ld. JMFC, Surajpur, dismissing the present Petitioners’ application regarding non-maintainability of the proceedings under DV Act; and

C) That, this Hon’ble Court may kindly be pleased to pass such other and further orders, as it deems fit and proper in the facts of the case, and in the

interest of justice.”

3. Facts of the case are that petitioner No. 1 and respondent No. 2 were married at Balia, Uttar Pradesh, according to Hindu rites and rituals on 27.06.2018. Out of the said wedlock, two children were born, namely: elder son Aarav Singh, aged about 6 years; and younger son Arnav Singh, aged about 4 years. Soon after the birth of their first child, the behaviour of respondent No. 2 towards petitioner No. 1 and his family members became abusive, violent, dispassionate, and apathetic. Immediately after the birth of the second child, respondent No. 2 insisted that the elder son be given in adoption to her sister, Ms. Nikita Singh, who is separated from her husband and resides at her paternal home. Upon petitioner No. 1's refusal to accede to such demand, respondent No. 2 became even more abusive and violent.
4. In or around August 2021, respondent No. 2 left the matrimonial home and went to her maternal home at Bishrampur along with the children for a period of two months, and thereafter refused to return. Petitioner No. 1 made several attempts to bring her back, but all such efforts were met with non-cooperation. On 05.03.2022, petitioner No. 1 once again went to Bishrampur to bring respondent No. 2 back to the matrimonial home. Eventually, with the intervention of third parties, respondent No. 2 returned on 07.03.2022 along with the children, subject to the express condition that petitioner No. 1 would sever all ties with his family and reside separately with her. Within two days of her return,

respondent No. 2 resumed her earlier abusive behaviour. She neglected the household and the children, behaved in an inappropriate and abusive manner in public, and repeatedly threatened to commit suicide. Thereafter, multiple police complaints and litigations were initiated between the parties.

5. The principal cause of dispute has consistently been respondent No. 2's insistence that one of the children be given in legal adoption to her sister, solely on the ground that her sister is separated from her husband and does not have children of her own. Respondent No. 2 was never interested in resolving the matrimonial disputes, but was solely focused on securing custody of both minor children. In furtherance of the said objective, she instituted four different cases in two different jurisdictions under four separate statutes, clearly engaging in forum shopping and misuse of the judicial process.
6. The above facts clearly demonstrate that the dispute between the parties is essentially a custody dispute, and that the proceedings initiated under the Protection of Women from Domestic Violence Act, 2005 are nothing but an attempt to harass, pressure, and intimidate petitioner No. 1 into either relinquishing his parental rights or succumbing to prolonged and oppressive litigation so as to lose custody of the children.
7. The true intent of respondent No. 2 is further evident from the impugned Domestic Incident Report (DIR) dated 19.10.2022,

which does not disclose any specific details regarding the alleged acts of domestic violence. The DIR fails to mention when, where, how, or by whom respondent No. 2 was allegedly harassed, tortured, or subjected to any physical or mental cruelty. The allegations in the DIR are vague and bald, merely stating that respondent No. 2 was subjected to dowry demands and mental and physical harassment, without specifying any particular incident, any description of physical injury or mental torture, any amount, article, or material object allegedly demanded as dowry.

8. In view of the above, the petitioners were left with no alternative but to approach this Court seeking quashing of the Domestic Incident Report and the Application dated 19.10.2022, along with all proceedings arising therefrom, as the same are false, frivolous, malicious, and instituted solely as pressure tactics in a civil dispute between spouses. the impugned DIR and Application are also liable to be quashed on merits, as they are completely devoid of credible material, lack essential particulars, and have been filed with the sole intent of abusing the process of law. Prior to approaching this Court, the petitioners had also filed an application dated 30.05.2023 before the Court of the learned JMFC, Surajpur, seeking quashing of the impugned proceedings. The said application was dismissed vide Order dated 26.11.2024, on grounds which are erroneous, unsustainable in law, and liable to be set aside. Hence, the present petition.

9. Learned counsel for the petitioners submits that respondent No. 2 has instituted false and frivolous proceedings under the Protection of Women from Domestic Violence Act, 2005 before the learned JMFC, Surajpur, whereas the real dispute between the parties is matrimonial in nature and primarily concerns custody of the minor children, rendering the dispute essentially civil. Learned counsel submits that the multiplicity of proceedings initiated by respondent No. 2 clearly reflects her sole objective of securing custody of the children, with the ulterior motive of enabling her sister to adopt one of them. The impugned DV proceedings have been initiated only to harass and pressurise petitioner No. 1 into relinquishing his parental rights or to overwhelm him with litigation so as to prejudice his custody claims. It is further submitted that the mala fide intent of respondent No. 2 is apparent from the Domestic Incident Report dated 19.10.2022, which is vague, bald, and entirely devoid of material particulars. The DIR fails to disclose any specific incident, date, place, nature of cruelty, injury, or dowry demand, and does not attribute any act to any particular petitioner. Learned counsel submits that respondent No. 2 has also suppressed material facts in her application under Section 12 of the DV Act by deliberately omitting disclosure of several proceedings initiated by her before different courts, while selectively mentioning only one application under Sections 97 and 98 CrPC. It is further submitted that the impugned DIR, prepared by the Protection Officer, is in clear violation of the mandatory

procedure under Section 9(1)(b) of the DV Act, as it lacks essential details, prior litigation history, and specific allegations. Such non-compliance defeats the statutory object of the Act and renders the proceedings under Section 12 legally unsustainable. Learned counsel submits that the order dated 26.11.2024 passed by the learned JMFC, Surajpur, dismissing the petitioners' application, is arbitrary and unsustainable, as only one of the multiple grounds raised was considered, while the remaining grounds were completely ignored. It is lastly submitted that non-compliance with mandatory statutory requirements is not a mere procedural irregularity but goes to the root of the matter. The absence of specific allegations in the DIR has caused grave prejudice to the petitioners and negates the existence of any *prima facie* case. Hence, the impugned DIR, the proceedings arising therefrom, and the order dated 26.11.2024 are liable to be quashed. The issue of maintainability is no longer *res integra*. The Hon'ble Supreme Court, in **Shaurabh Kumar Tripathi v. Vidhi Rawal**, reported in **2025 SCC OnLine SC 1158**, has categorically held that a petition under Section 482 of the Code of Criminal Procedure is maintainable for challenging proceedings arising out of an application under Section 12(1) of the Domestic Violence Act, 2005.

10. Learned counsel for respondent No. 2 submits that the marriage between petitioner No. 1 and respondent No. 2 was solemnised on 27.06.2018 according to Hindu rites and rituals, and two

children, Aarav Singh and Arnav Singh, were born out of the wedlock. Respondent No. 2 resided at her matrimonial home at Ballia, where immediately after marriage she was subjected to continuous cruelty, physical assault, and persistent dowry demands by the petitioners. She was also restrained from freely meeting and caring for her own children. Learned counsel submits that petitioner No. 3, the sister of petitioner No. 1, is separated, issueless, and residing with the petitioners, and that it has always been their ulterior motive to give the elder son in adoption to her. Upon respondent No. 2's refusal to consent to such adoption, she was subjected to continuous harassment and pressure to part with the custody of her child. It is further submitted that petitioner No. 1, being employed at Ghazipur, compelled respondent No. 2 to shift there along with the children, where his behaviour became increasingly violent. Owing to such conduct, respondent No. 2 was constrained to lodge complaints at Police Station Ghazipur on 08.08.2022 and 18.08.2022, followed by further complaints dated 06.09.2022 and 18.10.2022. Despite these complaints, no effective action was taken. It is specifically alleged that petitioner No. 1 forcibly took away the elder son and threatened not to return him. Learned counsel submits that due to the persistent cruelty of the petitioners, respondent No. 2 has been forcibly separated from her elder son for more than three years. It is further submitted that petitioner No. 3 wields political influence, due to which respondent No. 2 was unable to secure any relief at

Ballia, leaving her with no option but to initiate proceedings under the Protection of Women from Domestic Violence Act, 2005 at Surajpur. Learned counsel further submits that petitioner No. 1 has already obtained an ex parte decree under Section 9 of the Hindu Marriage Act, which has been deliberately suppressed in the present petition. The petitioners are attempting to misrepresent the facts and falsely portray respondent No. 2 as cruel. In view of the continuous harassment, dowry demands, and forcible separation of a minor child from his mother, the conduct of the petitioners is manifestly cruel and inhumane. Therefore, the writ petition is devoid of merit and deserves to be dismissed.

11. We have heard learned counsel for the parties and perused the documents appended with these petitions.
12. The Supreme Court in **Shaurabh Kumar Tripathi** (supra) held as under:-

“39. To conclude, the view taken in the impugned order of the High Court that a petition under Section 482 of the CrPC for challenging the proceedings emanating from Section 12(1) of the DV Act, 2005 is not maintainable, is not the correct view. We hold that High Courts can exercise power under Section 482 of CrPC (Section 528 of the B NSS) for quashing the proceedings emanating from the application under Section 12(1) of the DV Act, 2005, pending before the Court of the learned Magistrate. However, considering the object of the DV Act, 2005, the High Courts should exercise caution and

circumspection when dealing with an application under Section 12(1). Normally, interference under Section 482 is warranted only in the case of gross illegality or injustice. ”

13. The Supreme Court in the matter of *State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335* laid down the principles of law relating to the exercise of extraordinary power under Article 226 of the Constitution of India to quash the first information report and it has been held that such power can be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. In paragraph 102 of the report, their Lordships laid down the broad principles where such power under Article 226 of the Constitution/Section 482 of the CrPC should be exercised, which are as under: -

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1)Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted

in their entirety do not *prima facie* constitute any offence or make out a case against the accused.

(2)Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3)Where the uncontested allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4)Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5)Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6)Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7)Where a criminal proceeding is manifestly attended with *mala fide* and/or where the proceeding is maliciously instituted with an

ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will 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 and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

14. Having heard learned counsel for the parties at length and having carefully perused the pleadings, documents placed on record, and the judgments relied upon, this Court proceeds to examine whether the present case warrants exercise of its inherent and extraordinary jurisdiction under Section 482 of the Code of Criminal Procedure and Article 226 of the Constitution of India.
15. It is not in dispute that the marriage between petitioner No. 1 and respondent No. 2 was solemnized on 27.06.2018 and that two minor children were born out of the said wedlock. It is also evident from the record that multiple proceedings have been initiated between the parties in different jurisdictions. The pleadings unmistakably demonstrate that the core dispute between the parties revolves around matrimonial discord and, more particularly, the custody of the minor children.
16. A bare perusal of the impugned Domestic Incident Report dated 19.10.2022 reveals that the same is conspicuously vague and

bereft of material particulars. The DIR does not disclose the date, time, place, or manner of the alleged incidents of domestic violence, nor does it specify any act attributable to any particular petitioner. The allegations relating to dowry demand and physical or mental cruelty are entirely bald and omnibus, without reference to any specific incident, injury, or demand of any particular amount or article.

17. This Court finds substance in the submission of learned counsel for the petitioners that the impugned DIR does not satisfy the mandatory requirements of the Protection of Women from Domestic Violence Act, 2005. Under Section 9(1)(b) of the Act, the Protection Officer is under a statutory obligation to ensure that the Domestic Incident Report contains complete, accurate, and material particulars. The failure to do so goes to the very root of the matter and vitiates the initiation of proceedings under Section 12 of the Act.
18. The record further discloses that respondent No. 2 has initiated multiple proceedings in different fora, and material facts regarding such proceedings have been suppressed in the application filed under Section 12 of the Act. Suppression of material facts and selective disclosure disentitle a litigant from equitable relief and further strengthens the inference of mala fide intent.
19. This Court is also persuaded by the contention that the proceedings under the Domestic Violence Act, in the facts of the

present case, appear to have been initiated as a pressure tactic in what is essentially a civil dispute relating to matrimonial discord and child custody. The criminal process cannot be permitted to be used as a tool for harassment or to secure an advantage in collateral proceedings.

20. The impugned order dated 26.11.2024 passed by the learned JMFC, Surajpur, dismissing the petitioners' application for quashing, also suffers from serious infirmities. Though the learned Magistrate recorded that multiple grounds were raised challenging the maintainability of the proceedings, only one ground was considered, while the remaining grounds were left unaddressed. Such non-consideration of relevant grounds renders the order arbitrary and unsustainable in law.
21. In view of the law laid down by the Hon'ble Supreme Court in **Shaurabh Kumar Tripathi** (supra), the maintainability of the present petition under Section 482 CrPC is no longer in doubt. Further, the principles enunciated in **Bhajan Lal** (supra) clearly empower this Court to quash proceedings which are manifestly attended with mala fide intent, lack essential ingredients of an offence, or constitute an abuse of the process of law.
22. Applying the aforesaid principles to the facts of the present case, this Court is of the considered opinion that the impugned proceedings under the Protection of Women from Domestic Violence Act, 2005 are unsustainable in law and continuation

thereof would amount to abuse of the process of the Court.

23. Accordingly, the writ petition is **allowed**. The impugned Domestic Incident Report and Application dated 19.10.2022, and all proceedings arising therefrom, pending before the Court of the learned JMFC, Surajpur and the impugned order dated 26.11.2024 passed by the learned JMFC, Surajpur, dismissing the petitioners' application dated 30.05.2023, are hereby set aside. However, it is clarified that this order shall not preclude either party from pursuing appropriate remedies available under law before the competent civil or Family Court, in accordance with law. No order as to costs.

Sd/-

Sd/-

(Ravindra Kumar Agrawal)
Judge

(Ramesh Sinha)
Chief Justice

Head-note

Where the Domestic Incident Report is vague, lacks the material particulars required under Section 9 of the Protection of Women from Domestic Violence Act, 2005, and the proceedings are initiated with mala fide intent or as a pressure tactic in matrimonial disputes, the continuation of such proceedings amounts to an abuse of the process of law.