



2026:AHC:200128

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION DEFECTIVE No. - 1774 of 2026

A.F.R.

Kapil Dev Pundeer

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Ashutosh Kumar
Counsel for Opposite Party(s)	:	G.A., Kunwar Bikram Suryabansh

Court No. - 86

HON'BLE PRAVEEN KUMAR GIRI, J.

Order on Criminal Misc. Delay Condonation Application

1. This is an application seeking condonation of delay in filing this revision as there is a delay of 28 days.
2. Cause shown for the delay is sufficient. Delay in filing this revision is condoned.
3. Accordingly, this application stands allowed.

Order on Criminal Revision

1. Heard Sri Ashutosh Kumar, learned counsel for the revisionist, Sri Kunwar Bikram Suryabansh, learned counsel for the opposite party No.2, and Sri Shashi Dhar Pandey, learned A.G.A. for the State.
2. The present criminal revision has been filed seeking relief as mentioned in the prayer clause. The prayer clause is delineated below:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow the present Criminal Revision and set aside the impugned order dated 29.04.2026 passed by the Additional District and Session Judge/ Fast Tract Court 02, Ghaziabad in Criminal Appeal No.180/2025 (Kapil Dev Pundeer VS State of U.P and others) under

section 29 of Protection of Women From Domestic Violence Act, 2005 as well as set aside the impugned order dated 03.06.2025 passed by Additional Civil Judge (Senior Division)/ Additional Chief Judicial Magistrate, Court No.5, Ghaziabad in Criminal Misc. Application No. 11554/2023 (Neelam Pundeer vs Kapil Dev Pundeer) under section 12 read with 17,18,19, and 20 of Protection of Women From Domestic Violence Act,2005 otherwise the applicant shall suffer irreparable loss and injury which cannot be compensate in any manner."

3. Learned counsel for the revisionist submits that vide order dated 03.06.2025, the learned Trial Court directed the revisionist to furnish a personal bond in the sum of Rs.50,000/- with an undertaking not to commit any violence against his wife and minor child during the pendency of the case. He submits that the aforesaid order was challenged by the revisionist by preferring an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as, 'the Act, 2005') before the learned Additional District and Sessions Judge/Fast Track Court No. 2, Ghaziabad, which came to be dismissed vide order dated 29.04.2026, thereby affirming the order dated 03.06.2025. For ready reference, the operative portion of the order dated 3.6.2025 and 29.04.2026 is pasted below:-

Order dated 3.6.2025 -

8- वादिनी द्वारा प्रस्तुत प्रार्थनापत्र दिनांकित 06-03-2025 स्वीकार किया जाता है। आपत्ति तदनुसार निस्तारित की जाती है। विपक्षी कपिल देव पुण्डीर को निर्देशित किया जाता है कि वाद के अन्तिम निस्तारण तक वादिनी नीलम पुण्डीर व उनके पुत्र मास्टर उत्कर्ष के साथ किसी भी प्रकार की घरेलू हिंसा कारित न करे। साथ ही मु० 50,000/- की धनराशि का व्यक्तिगत बन्ध-पत्र व इस आशय की अन्डरटेकिंग ,कि वे वादिनी नीलम व उसके पुत्र मास्टर उत्कर्ष के साथ वर्तमान वाद के लम्बित रहने के दौरान किसी भी प्रकार की घरेलू हिंसा कारित नहीं करेंगे,अग्रिम तिथि पर न्यायालय के समक्ष प्रस्तुत करें। पत्रावली दिनांक 24-06-02025 को पेश हो।

Order dated 29.04.2026 -

Criminal Appeal no. 180/2025, kapil dev Pundir Vs. State of U.P. and others is disallowed.

Record be consigned as per rules. Copy of this order alongwith the record of case no. 11534/23 be immediately sent to the Ld Trial Court to decide the case as expeditiously as possible.

4. Learned counsel for the revisionist further submits that the revisionist

has, admittedly, not furnished the aforesaid bond or undertaking till date and, therefore, there could be no question of any breach thereof. He submits that, nevertheless, vide order dated 18.08.2026, the learned Additional Chief Judicial Magistrate, Court No. 6, Ghaziabad, has issued a recovery warrant against the revisionist on the ground of breach of the aforesaid undertaking. It is, thus, submitted that in the absence of execution of any such bond or undertaking, no question of its breach could arise and, consequently, the recovery warrant could not have been issued on that ground.

5. This Court, vide order dated 09.09.2026, called for an explanation/report from the learned Additional Chief Judicial Magistrate, Court No. 6, Ghaziabad, as to whether there is any provision for furnishing a personal bond by the respondent during the pendency of proceedings under the Act, 2005, and whether, in the absence of any breach of such bond, a recovery warrant could legally be issued against the respondent.

6. In compliance with the aforesaid order, the learned Additional Chief Judicial Magistrate, Court No. 6, Ghaziabad, has submitted his report/explanation before this Court.

7. Learned counsel for opposite party No. 2 submits that in view of the provisions contained in Section 19(3) read with Section 23(2) of the Act, 2005, the Magistrate may require the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence, including where there is a likelihood of the respondent committing an act of domestic violence. The provisions of Sections 19(3) and 23(2) of the Act, 2005 are delineated below for ready reference:-

"Section 19(3).- The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence."

Section 23(2).-If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on

the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

8. Learned counsel for opposite party No. 2 as well as learned A.G.A. further submit that although there is no specific provision prescribing the procedure for issuance of a recovery warrant in the absence of breach of such bond, but Section 28(2) of the Act permits the Court to lay down its own procedure for disposal of an application under Section 12 or under sub-section (2) of Section 23 of the Act, 2005. The provision of Section 28(2) of the Act, 2005 is delineated below for ready reference:-

"Section 28(2).- Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23."

9. Having heard the learned counsel for the parties, this Court is of the view that the provisions of Sections 19(3), 19(4) and 28(2) of the Act, 2005 are relevant for the controversy involved in the present case.

10. Section 19(3) of the Act, 2005 empowers the Magistrate to require the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence. Sub-section (4) of Section 19 further provides that an order passed under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973/Chapter IX of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall be dealt with accordingly. Thus, where an order passed under Section 19(3) is followed by actual execution of the bond by the respondent and the conditions thereof are subsequently breached, the consequences of such breach have to be dealt with in accordance with the statutory mechanism governing forfeiture of such bond.

11. In such a situation, Section 446 Cr.P.C./491 BNSS contemplates the procedure to be followed where a bond has been forfeited. Upon the Court being satisfied that the bond has been forfeited, the Court is required to record the grounds of such satisfaction and may call upon the person bound by the bond to pay the penalty thereof or to show cause why the same should not be paid. If sufficient cause is not shown and the

penalty is not paid, the same may thereafter be recovered as if it were a fine imposed by the Court. The provision further empowers the Court, for reasons to be recorded, to remit any portion of the penalty and enforce payment in part only.

12. Therefore, in a case where the respondent has actually executed the bond pursuant to an order under Section 19(3) of the Act, 2005 and subsequently commits a breach of the conditions thereof, the amount mentioned in the bond does not become automatically recoverable merely upon the allegation of breach. The Court would first be required to consider and determine the alleged breach, record the grounds on which the bond is found to have been forfeited and afford an opportunity to the person bound by the bond to pay the penalty or to show cause against payment. Only thereafter, if sufficient cause is not shown and the penalty remains unpaid, the amount may be recovered in accordance with law. The Court may also, for reasons to be recorded, remit the whole or any part of the penalty and enforce payment accordingly.

13. However, the facts of the present case stand on a different footing. It is the specific submission of learned counsel for the revisionist, which has not been disputed, that although vide order dated 03.06.2025 the learned Trial Court directed the revisionist to furnish a personal bond in the sum of Rs.50,000/- along with an undertaking not to commit violence against his wife and minor child, but the revisionist has admittedly not furnished or executed the said bond or undertaking till date.

14. In the absence of execution of the bond itself, there can be no question of forfeiture of such bond on account of breach of any of its conditions. The amount of Rs.50,000/- mentioned in the order dated 03.06.2025 represents the amount of the bond which was required to be executed and cannot, merely by reason of its being specified in the order, be treated as a sum automatically recoverable from the revisionist. Consequently, the procedure relating to forfeiture and recovery of the penalty under Section 446 Cr.P.C./491 BNSS would necessarily presuppose the existence of an executed bond and its subsequent forfeiture in accordance with law.

15. The submission of learned counsel for opposite party No. 2 that

Section 28(2) of the Act, 2005 enables the learned Magistrate to devise his own procedure also does not, in the facts of the present case, furnish an independent basis for treating the amount of an unexecuted bond as a recoverable monetary liability. Section 28(2) cannot be construed so as to dispense with the statutory requirement governing forfeiture of a bond which has been duly executed, particularly when Section 19(4) itself specifically provides that an order under Section 19(3) shall be dealt with in accordance with Chapter VIII of the Cr.P.C./Chapter IX of the BNSS.

16. Accordingly, in the peculiar facts of the present case, where the revisionist has admittedly not executed the bond or furnished the undertaking directed by the order dated 03.06.2025, the question of breach and consequent forfeiture of the said bond does not arise. Consequently, the issuance of a recovery warrant for recovery of the amount of bond, i.e. Rs.50,000/- cannot be sustained.

17. Be that as it may, learned counsel for the revisionist submits that the revisionist is now ready and willing to furnish the personal bond in the sum of Rs.50,000/- along with the undertaking as directed by the learned Trial Court vide order dated 03.06.2025. He, however, submits that the proceedings under the Act, 2005 may also be directed to be concluded within a stipulated period.

18. Considering the aforesaid submission and the statement made by learned counsel for the revisionist, twenty days' time is granted to the revisionist to furnish the personal bond in the sum of Rs.50,000/- along with the undertaking in terms of the order dated 03.06.2025.

19. It is further directed that the learned Trial Court shall make every endeavour to conclude the proceedings arising out of the application under Section 12 of the Act, 2005, expeditiously, preferably within a period of six months from today, after affording adequate opportunity of hearing to all concerned and without granting any unnecessary adjournments.

20. It is clarified that in the event the revisionist, after execution of the bond, commits any breach of the conditions thereof, the consequences of such breach shall be dealt with strictly in accordance with the provisions

of law governing forfeiture of the bond, after following the procedure prescribed therefor.

21. With the aforesaid observations and directions, the present criminal revision stands disposed of.

(Praveen Kumar Giri,J.)

September 23, 2026
DKS