



2026:AHC:203204

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION DEFECTIVE No. - 1825 of 2026

A F R

Nilesh Gupta

.....Revisionist(s)

Versus

State Of U.P. And 6 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Vivekanand Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 86

HON'BLE PRAVEEN KUMAR GIRI, J.

C.M. Delay Condonation Application No.1 of 2026

1. The instant delay condonation application has been filed seeking condonation of delay in filing this revision, which is beyond time by 12 days.
2. The reasons shown in the accompanying affidavit is found sufficient and to the satisfaction of this Court.
3. The delay condonation application is **allowed**. Consequently, the delay in filing the revision is condoned.

Order on revision

4. Heard Sri Vivekanand Yadav, learned counsel for the revisionist and Sri Pankaj Kumar, learned A.G.A. for the State.
5. Learned counsel for the revisionist submits that the instant criminal revision has been preferred with the relief which has been mentioned in the prayer clause. The relief mentioned in the prayer clause of the revision is delineated below:-

"It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow the present Criminal Revision call for record and set aside the impugned ex-parte judgment and order dated

19.05.2026 passed by the learned Judicial Officer, Gramy Nyayalalay, Tehsil Chauri Chaura, District Gorakhpur in Complaint No. 448 of 2023 (Annu Gupta Vs. Nilesh Gupta and others) Under Section 12 of Domestic Violence Act, Police Station Chauri Chaura, District Gorakhpur.

It is further prayed that this Hon'ble Court may graciously be pleased to stay the effect and operation of the impugned ex-parte judgment and order dated 19.05.2026 passed by the learned Judicial Officer, Gramy Nyayalalay, Tehsil Chauri Chaura, District Gorakhpur in Complaint No. 448 of 2023 (Annu Gupta Vs. Nilesh Gupta and others) Under Section 12 of Domestic Violence Act, Police Station Chauri Chaura, District Gorakhpur and may also remand back the matter before the learned Judicial Officer, Gramy Nyayalalay, Tehsil Chauri Chaura, District Gorakhpur for fresh consideration/order, during the pendency of the present criminal revision meanwhile, otherwise, the revisionist shall suffer an irreparable loss and substantial injury."

6. Learned counsel for the revisionist submits that the trial court i.e. Nyayadhikari, Gram Nyayalalay, Tehsil Chauri Chaura, Gorakhpur under the proceeding of the Protection of Women from Domestic Violence Act, 2005 (in short to be referred as 'the Act') passed final ex parte order on 19.05.2026 and granted relief of Section 18, 19, 20 and 22 of the Act. The relevant portion of the order dated 19.05.2026 is being delineated below :-

"

आदेश

याचिनी के पक्ष में तथा विपक्षीगण के विरुद्ध निम्नलिखित अनुतोष प्रदान जाता है।

1-विपक्षीगण को याचिनी के प्रति किसी प्रकार की घरेलू हिंसा के कृत्य किये जाने से या उत्प्रेरित किये जाने से निषेधित किया जाता है और उन्हें निर्देशित किया जाता है कि वह याचिनी के विरुद्ध किसी प्रकार की कोई घरेलू हिंसा कारित नहीं करेंगे।

2- विपक्षी सं०- 1 निलेश गुप्ता को आदेशित किया जाता है कि वह याचिनी को उसी स्तर की अनुकल्पिक आवासीय सुविधा जैसा कि उसके द्वारा सहभागी गृहस्थ गृह में उपयोग की गयी है, अर्थात् विपक्षी सं०-1 निलेश गुप्ता याचिनी को अपने गृहस्थ गृह में अपने सामान की आवासीय सुविधा उपलब्ध कराये तथा विपक्षीगण को आदेशित किया जाता है कि वे प्रार्थिनी के निवास अधिकार में किसी भी प्रकार का कोई हस्तक्षेप एवं बाधा कारित नहीं करेंगे।

3- विपक्षी सं० 1 निलेश गुप्ता को आदेशित किया जाता है कि वह याचिनी अन्नु गुप्ता को उसके विधितः हकदार होने तक भरण-पोषण, चिकित्सा, शिक्षा एवं अन्य गृहस्थी खर्च आदि

को सम्मिलित करते हुए मुव०- 4,000/- (चार हजार) रूपया भरण-पोषण आवेदन प्रस्तुत करने की तिथि से प्रत्येक माह की पन्द्रह तारीख को प्रदान करे।

4- याचिनी को विपक्षीगण द्वारा कारित घरेलू हिंसा से हुई मानसिक, भावनात्मक एवं शारीरिक प्रताडना के लिए क्षतिपूर्ति के रूप में मुव० 25,000/- (पच्चीस हजार) रूपया एकमुश्त धनराशि विपक्षी सं० 1 निलेश गुप्ता द्वारा याचिनी अन्नु गुप्ता को अदा की जाय।

इस आदेश की एक प्रति याचिनी एवं विपक्षीगण को अविलम्ब निःशुल्क प्रदान/प्रेषित की जाय तथा विपक्षीगण के निवास स्थान से संबंधित क्षेत्राधिकार वाले थाना के भारसाधक को इस आदेश की एक प्रति आदेश के अनुपालनार्थ अविलम्ब प्रेषित किया जाय। संबंधित थानाध्यक्ष को यह भी निर्देशित किया जाता है कि वह पीड़िता द्वारा स्वयं अथवा उसकी तरफ से अन्य किसी व्यक्ति द्वारा आवेदन करने पर उपर्युक्त आदेश के प्रवर्तन में पीड़िता को सहायता और संरक्षण प्रदान करेगा।"

7. Per contra, Sri Pankaj Kumar, learned A.G.A. assists the Court and submits that against any order passed by the Judicial Magistrate under the provisions of the Protection of Women from Domestic Violence Act, there is a provision for preferring an appeal under Section 29 of the D.V. Act. He further submits that as per Section 33 (3) of the Gram Nyayalayas Act, 2008 (hereinafter to be referred as 'the Act, 2008'), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

8. This Court has perused the record as well as the provisions of law i.e. Section 29 of the D.V. Act and also Section 33 of the Act, 2008. Under Section 29 of the D.V. Act, there is a provision for preferring an appeal before the Court of Session against an order passed by the Judicial Magistrate under the D.V. Act. There is also a provision under Section 33(3) of the Act, 2008 that an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session. For ready reference Section 29 of the Protection of Women from Domestic Violence Act, 2005 as well as Section 33 of the Gram Nyayalayas Act, 2008 are delineated below :-

"Section 29 of the Protection of Women from Domestic Violence Act, 2005

29. Appeal. There shall lie an appeal to the Court of Session within thirty

days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

Section 33 of Gram Nyayalayas Act, 2008

33. Appeal in criminal cases.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder.

(2) No appeal shall lie where—(a) an accused person has pleaded guilty and has been convicted on such plea;

(b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees.

(3) Subject to sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya: Provided that the Court of Session may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(5) An appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of such appeal.

(6) The Court of Session may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

(7) The decision of the Court of Session under sub-section (5) shall be final and no appeal or revision shall lie from the decision of the Court of Session: Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution."

(emphasis supplied)

9. A larger Bench of Three Hon'ble Judges of this Court in the case of Dinesh Kumar Yadav vs. State of U.P. and another, (2016) 11 ADJ 29

in paragraphs 23, 23.1 and 23.2 has observed that against an order of a Magistrate passed under the Protection of Women from Domestic Violence Act, 2005, there is remedy of preferring an appeal under Section 29 of the D.V. Act. For ready reference, paragraphs 23, 23.1 and 23.2 of the aforesaid judgment are delineated below :-

"23. Under Section 397 of Cr.P.C. "the High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court...". That the Court of Sessions is as an inferior Court to the High Court, cannot be disputed. thus, the Court of Sessions before which an appeal has been prescribed under Section 29 of the Act, 2005 is a Criminal Court inferior to the High Court and, therefore, a revision against its order passed under Section 29 will lie to the High Court under Section 397 Cr.P.C. Section 401 Cr.P.C. is supplementary to Section 397 Cr.P.C.

23.1 Section 4(2) Cr.P.C. does not have any application to the present case. Since the Act, 2005 does not prescribe any special form of procedure either for the proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 or for an appeal under Section 29, therefore, Section 5 is also not attracted.

23.2 In view of the above, as the remedy of an appeal had been provided under Section 29 of the Act, 2005 before a Court of Sessions, which means a Court of Sessions referred under Section 6 read with Sections 7 and 9 of the Cr.P.C., without saying anything more as regards the procedure to be followed in such appeal, and there being nothing to the contrary in the Act of 2005 which may be indicative of exclusion of the application of the provisions of Cr.P.C. to such an appeal, the normal remedies available against the judgment and order passed by a Court of Sessions by way of appeals and revisions prescribed under the Cr.P.C. before the High Court, are available against an order passed in appeal under Section 29 of the Act, 2005."

10. In view of above facts and circumstances, the statutory remedy available to the revisionist is to file an appeal against the impugned ex parte order dated 19.05.2026 under Section 29 of the Protection of Women from Domestic Violence Act, 2005 as well as Section 33 of the

Gram Nyayalayas Act, 2008.

11. The present revision is, accordingly, **dismissed**. However, it is open for the revisionist to avail the statutory remedy as per law before appropriate forum.

(Praveen Kumar Giri,J.)

September 28, 2026

Manish Himwan