GAHC010272922024

2026:GAU-AS:8638

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1579/2024

PARVEZ ALAM AND 3 ORS.
S/O TAHIR HUSSAIN ANSARI
R/O VILL- MANIKPUR, DHAKUAKHANA (PART-I)
P.O. AND P.S. DHAKUAKHANA
DIST. LAKHIMPUR, ASSAM
PIN-787055

2: TAHIR HUSSAIN ANSARI
S/O HUSSAIN ANSARI
R/O VILL- MANIKPUR
DHAKUAKHANA (PART-I)
P.O. AND P.S. DHAKUAKHANA
DIST. LAKHIMPUR
ASSAM
PIN-787055

3: NASEEMA BEGUM
W/O TAHIR HUSSAIN ANSARI
R/O VILL- MANIKPUR
DHAKUAKHANA (PART-I)
P.O. AND P.S. DHAKUAKHANA
DIST. LAKHIMPUR
ASSAM
PIN-787055

4: SHAMMA PARVEEN
W/O RAFAQUAT HUSSAIN
D/O TAHIR HUSSAIN ANSARI
VILL- PANCHRUKHI
P.O. AND P.S. PANCHRUKHI
DIST.SIWAN
BIHAR
PIN-84124

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PP, ASSAM

2:SHAISTA NAZ
W/O PARVEZ ALAM
D/O PARWEZ AHMED
PRESENTLY RESIDING AT
VILL- KAKARATOLI GAON (BALIBAZAR)
P.O. TALAP
P.S. DOOMDOOMA

DIST. TINSUKIA
PIN-78615

-BEFORE-
HON'BLE MR. JUSTICE PRANJAL DAS

Advocate for the petitioners : *Ms. R. Choudhury, Sr. Adv*
: *Ms. S. Ahmed, Adv*
Advocate for the State respondent : *Mr. P. Borthakur, APP*
Advocate for the respondent No. 2 : *Ms. L. Devi, Legal Aid Counsel*

Date on which judgment is reserved : ***25.05.2026***

Date of pronouncement of judgment : ***16.06.2026***

Whether the pronouncement is of the operative part of the judgment ? : *N/A*

Whether the full judgment has been pronounced? : *Yes*

JUDGMENT & ORDER (CAV)

Heard Ms. R. Choudhury, learned Senior counsel assisted by Ms. S.

Ahmed, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional PP for the State and Ms. L. Devi, learned Legal Aid Counsel for the respondent no. 2.

2. The 4 (four) petitioners namely, Shri. Parvez Alam, Shri. Tahir Hussain Ansari, Smt. Naseema Begum and Smt. Shamma Parveen, have preferred this criminal petition invoking the inherent powers of this Court aggrieved by the Order dated 20-11-2024, passed by the learned JMFC, Tinsukia in Misc D.V case No. 24/2024, whereby notice has been issued to the petitioners. The petitioners herein are also aggrieved by the Protection Order passed by the learned JMFC by the said impugned order and also ex-parte maintenance order under Section 23 of the Protection of Women from Domestic Violence Act, 2004 (hereinafter referred to as the *DV Act*). The petitioner No. 1 is stated to be the husband of the aggrieved person; petitioner no. 2 is the father-in-law; petitioner No. 3 is the mother-in-law and petitioner No. 4 is the sister-in-law of the aggrieved person. The aggrieved person who is stated to be the wife of the petitioner No. 1 has been impleaded as respondent no. 2.

3. The facts of the case may be noticed herein as follows:- On 18-11-2024, the respondent No. 2 Shaista Naz as aggrieved person filed an application before the learned Court below stating that her marriage with the petitioner no. 1 was solemnized on 16-05-2022 and that the other petitioners are her father-in-law, mother-in-law and sister-in-law. It is the case of the aggrieved person that her husband is a doctor by profession, who was working at the Community Health Center at Ghilamara in Lakhimpur district of Assam.

4. She further stated that she was a homemaker who was looking after

the domestic affairs of her husband and family after her marriage. It is contended and alleged by the aggrieved person that she was subjected to various acts of physical and emotional abuse constituting domestic violence and ultimately, she stopped residing in her matrimonial home with her husband. The petitioners deny the commission of any such domestic violence and contended that the allegations of domestic violence are incorrect and falsely made by the by the daughter-in-law.

5. In support of her contentions, the learned counsel for the petitioners, Mrs. R. Choudhury, submits that the respondent no. 2/ was in the joint matrimonial household for a period of 14 days. It is submitted that some of the prayers of the respondent no. 2 are confusing in nature, indicative of the fact that she has made baseless allegations against her husband and his family. The learned counsel for the petitioners submits that in terms of the law laid down by the Hon'ble Supreme Court, it is well settled that the powers under 482 CrPC can be invoked to seek quashing of a proceeding under the DV Act also.

6. It is submitted by the learned counsel for the petitioners that the petitioner no. 4, who is the sister-in-law of the aggrieved person lives in Bihar and she has been roped in by the aggrieved person in this proceeding. It is submitted that an FIR dated 13-11-2024 was lodged on behalf of the petitioners side with regard to an incident and that the present DV proceeding is a counter-blast to the same proceeding. It is stated that the aforementioned FIR was lodged on 13-11-2024 and the DV case came to be filed on 18-11-2024.

7. On the other hand, Ms. Devi, the learned Legal Aid Counsel representing the aggrieved person submits that there are significant

allegations against the husband and mother-in-law of the aggrieved person. However, she fairly submits that perhaps there are not much allegations against the sister-in-law and father-in-law, especially the sister-in-law who is petitioner No. 4 in this present proceeding.

8. In support of her contentions, the learned counsel for the petitioners cites the following decisions:-

(i) Dr. Sushil Kumar Purbey Vs. The State of Bihar reported in 2026 INSC 212

(ii) Anurag Vijaykumar Goel Vs. State of Maharashtra & Anr reported in 2025 Legal Eagle (SC) 869: 2025 INSC 926: 2025 SCC Online SC 1611

(iii) Geddam Jhansi & Anr Vs. State of Telangana & Ors reported in 2025 Legal Eagle (SC) 142

(iv) Shaurabh Kumar Tripathi Vs. Vidhi Rawal reported in 2025 Legal Eagle (SC) 636: 2025 SCC Online SC 1158 : 2025 INSC 734.

9. The learned counsel for the respondent cites the following decision:-

(i) *Nandan Mazumder Vs. Shilpi Mazumder, Criminal Petition No.701/2024*

10. I have perused the petition filed in this proceeding, the complaint filed by the aggrieved person before the learned court below and other relevant materials. I have considered the rival submissions and perused the decisions cited at the Bar.

11. At the outset, the issue of whether the inherent powers of this Court can be invoked with regard to a matter arising out of a proceeding under the DV Act may be dealt with.

12. In this context, the decision of the Hon'ble Supreme Court in the case of *Shaurabh Kumar Tripathi* (supra) relied upon by the petitioners side has settled the said position of law. In the case of *Kunapareddy alias Nookala*

Shanka Balaji Vs Kunapareddy Swarna Kumari and Anr reported in *(2016) 11 SCC 774,* the Hon'ble Supreme Court held that proceedings under the DV Act are predominantly civil in nature.

13. A person can be prosecuted under the DV Act only upon violation of a protection order in which case, the provisions of section 31 of the Act gets triggered. In ***Shaurabh Kumar Tripathi*** (supra) the Hon'ble Apex Court after referring to various provisions of the DV Act concluded and held that inherent powers under Section 482 CrPC (Section 528 BNSS) are available for quashing proceedings emanating from the DV Act. However, the said principle was qualified by also holding that normally such powers should be exercised only in cases of gross illegality or injustice. The relevant paragraph 39 of ***Shaurabh Kumar Tripathi*** (supra) may be reproduced herein below:-

> "***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 BNSS) 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.*"

14. Thus, it is no longer *res integra* that a quashing petition can be filed with regard to an order passed in a DV proceeding. However, the said powers can be exercised only within the ambit of a small window indicated by the Hon'ble Supreme Court, in a situation where there is gross illegality

or injustice.

15. It may be mentioned herein that section 29 of the DV Act provides for appeal from an order passed by a Magistrate. Such an appeal has to be preferred within a period of 30 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. The relevant section 29 may be reproduced herein below:-

> "***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.*"

16. Thus, the DV Act itself provides a statutory remedy by way of appeal to a person (aggrieved person or respondent) to assail the order of the Magistrate, in an appeal before the Sessions Court. In this context, while laying down the law with regard to the maintainability of the proceeding under section 482 CrPC (section 528 BNSS), in the case of *Shaurabh Kumar Tripathi* (supra), the Hon'ble Supreme Court has referred to said aspect of the matter in paragraph 36 of the said judgment, which may be reproduced herein below:-

> "***36.*** *We must also note here that against an order passed by a learned Magistrate, there is an appeal provided under Section 29 to the Court of Session. In contrast, generally, there is no remedy of appeal available against an order taking cognisance of an offence or an order issuing process. This is another reason why the High Court should exercise caution when exercising its inherent jurisdiction to quash proceedings under Section 12 of the D.V. Act, 2005.*"

17. It is well settled that when a specific statutory remedy is provided, recourse to the inherent powers of this Court are usually not to be

resorted to. In the context of the DV Act and section 29 thereof, the Hon'ble Supreme Court in *Shaurabh Kumar Tripathi* (supra) has taken this aspect into account and the limited scope of interference under inherent powers of this Court in a proceeding arising out of the DV Act, has also flowed from its discussion in the aforementioned paragraph 36 of the judgment.

18. On the touchstone of these principles, now it remains to be seen as to what are the allegations that were made against the petitioners herein (as respondents in the DV proceeding) and thereafter to determine whether it would be justified to exercise the inherent powers of this Court in their favour, within the limited scope of exercise of such powers indicated in paragraph 39 of *Shaurabh Kumar Tripathi* (supra) by the Hon'ble Supreme Court.

19. Admittedly, when the learned Magistrate on the application of the aggrieved person, issued notice to the petitioners as respondents, they have not preferred any appeal under section 29 of the DV Act, and that they have preferred to straight away prefer a petition invoking the inherent powers of this Court.

20. Now, the specific allegations against each of the petitioners made by the aggrieved person in her application under section 12 of the DV Act may be seen.

21. The aggrieved person has made *interalia* the following allegations against the petitioner No. 1, who is stated to be her husband –

21.1 His conduct, along with the conduct of the other petitioners created immense physical, emotional, and psychological trauma to her. A few days

after marriage, her husband informed her that several crucial information had been withheld from her prior to marriage and showed her a resignation letter that he was proposing to resign. And subsequently, he told her about his struggle with mental health issues and being a phone addict for which he took psychiatric consultation. In the context of these developments, the aggrieved person began to feel that she had been trapped in a conspiracy orchestrated by her husband and his family. Her husband, the petitioner No. 1, subjected her to thyroid test and later told her that he knew that there was no thyroid related issues and that her real issue was sugar levels.

21.2. When the aggrieved person was six months pregnant, one day her husband slapped her across the face with full force, which caused her not only physical pain, but also immense emotional trauma. Her husband never listened to her, nor showed her any respect and that he mechanically followed the instructions given by his parents and that the conduct of the petitioner No. 1, her husband, caused her emotional and mental torture. When the aggrieved person was seven months pregnant, one day when she was working in the kitchen, the petitioner No. 1 mercilessly beat her with a cardboard box which inflicted physical pain and emotional trauma upon her and left her in a disturbed state of mind. Such assault had also induced labour pain prematurely, risking her and her unborn child's life.

21.3. The petitioner No. 1, her husband, once gave her a tablet named Olaford 7.5 mg for healing her C-section stitches but later, she found that it was a medicine for treatment of schizophrenia. On one occasion, the petitioner No. 1 entered the kitchen where she was and after locking the

door, began to beat her mercilessly, dragging her across the kitchen floor and as a result of which, her knees were bruised. He also assaulted her on her hips causing her to fall and also assaulted her on her face. On one occasion, she also found the said Olaford 7.5 mg medicine hidden by the petitioner No. 1 under his pillow.

22. The aggrieved person *inter alia* made the following allegations against petitioner No. 2 (father-in-law) :-

22.1. When her father-in-law came to visit them at their official residence, where the aggrieved person was staying with her husband, his discussions with her husband began to influence his thoughts and behavior. On 21-07-2023, the aggrieved person and her baby daughter developed high fever and she was also coughing violently leading to pain on her stitches pursuant to C-section. Despite her condition, her father-in-law forced her to cook food in the kitchen leading to aggravation of her pain. When the aggrieved person was assaulted by her husband and mother-in-law, resulting in injuries, her father-in-law said that she deserved it and told her husband to divorce her and let her go and further said that they will take away the child also.

23. The aggrieved person *inter alia* made the following allegations against the petitioner No. 3 (mother-in-law):-

23.1. On 20.05.2022, while her husband was on night duty, her mother-in-law called her to her room and after grabbing her mobile phone, threw it on the bed. She further taunted her by saying – 'disposed of so cheaply', indicating her dissatisfaction with regard to dowry. The mother-in-law continued to belittle the aggrieved person saying what had her

mother given, though they are rich and also asked about her aunt who wears some costly gold articles.

23.2. The petitioner no. 3 (mother-in-law) would often question the aggrieved person as to how she managed to marry her son and that became a daily source of stress and emotional distress. The mother-in-law used to persistently harass and body shame the aggrieved person during her pregnancy, by calling her fat. The mother-in-law also used to taunt her when she had some nausea during her pregnancy.

23.3. When the aggrieved person used to be talking to her parents on phone, her mother-in-law would intervene and tell her to disconnect the phone as a result of which often she had to end her conversations with her parents.

23.4. The mother-in-law subjected her to demeaning remarks frequently asking why she had married her son.

23.5. The mother-in-law also caused injuries on her stitches after her delivery. When the parents of the aggrieved person came to visit her, to see her new born child, the mother-in-law told her father that their visit was not necessary.

23.6. On 18.07.2023, the mother-in-law demanded a car as part of the dowry. Further, her mother-in-law (petitioner no. 3) along with her husband (petitioner no. 1) worked together to force her to take Olaford 7.5 mg tablet which she found was for the treatment of schizophrenia.

24. The aggrieved person *interalia* made the following allegations against the petitioner no. 4 (sister-in-law):-

24.1. The petitioner no. 4 (sister-in-law) of the aggrieved person had

provoked her husband against her while maintaining a façade of innocence.

24.2. On 20.05.2022, when the mother-in-law of the aggrieved person insulted her by saying as to why they disposed her of so cheaply, indicating her dissatisfaction with the dowry and belittling her with regard to her parents and aunt - the petitioner no. 4 (sister-in-law) called the aggrieved person and told her not to reveal the same to her husband or her parents about such conduct of the mother-in-law.

25. Before proceeding further, the definition of domestic violence given in Section 3 of the DV Act may be looked at. The said section is reproduced herein below:

> "***3. Definition of domestic violence.***—*For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—*
>
> *(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or*
>
> *(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or*
>
> *(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or*
>
> *(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person."*

26. Thus, acts of the respondent to qualify as domestic violence within the meaning of section 3 of the DV Act would have to fall into one or more of the categories – physical abuse; sexual abuse; verbal and emotional abuse and economic abuse.

27. The DV Act lays down various remedies for the aggrieved person who is a victim of domestic violence by way of Protection orders (section 18); Residence orders (section 19); Monetary reliefs by way of lumsum compensation as well as maintenance (section 20); Custody order (section 21) and Compensation orders (section 22).

28. Under Section 12 of the DV Act, an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act. An aggrieved person is defined under section 2 (a) of the DV Act as any woman who is, or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.

29. Section 2 (s) defined defines 'shared household' as follows:-

> "*2(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a house hold whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;"*

30. Section 17 also has significance in the scheme of things in the DV Act as it provides right to the women to reside in a shared household. The said provision may be reproduced herein below:-

> "***17.*** *Right to reside in a shared household.—(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same. (2) The aggrieved person shall not be evicted or excluded from the shared household or*

any part of it by the respondent save in accordance with the procedure established by law."

31. Now going back to the facts of the instant case - In the context of the allegations made against the petitioners by the aggrieved person, this Court is of the considered opinion that the allegations made against the husband of the aggrieved person (petitioner no. 1) and the mother-in-law of the aggrieved person (petitioner no. 3) – are of such a nature that their cases are simply not covered by the *small window* envisaged by the Hon'ble Supreme Court in the case of *Shaurabh Kumar Tripathi* (supra) at Para 39, within the ambit of which, the proceeding can be quashed. The allegations made against the husband and the mother-in-law raises issues which can be decided only upon adducing of some evidence and therefore, should be left for adjudication in the proceeding before the learned Magistrate.

32. As indicated in the earlier part of the judgment, the petitioners after being noticed by the Court of the learned Magistrate upon filing of application by the aggrieved person – have straight away come to this Court seeking to invoke its inherent powers. They have not taken recourse to the statutory provision under Section 29 of the DV Act.

33. Upon perusing the allegations made with regard to the father-in-law (petitioner no. 2), this Court is of the view that thought the said allegations are of a lesser degree than the allegations with regard to the mother-in-law and the husband but, nevertheless certain aspects of those allegations might necessitate evidence in the DV proceeding and, therefore, the case of the father-in-law (petitioner no. 2) also fails the tests for invoking inherent powers laid down in *Shaurabh Kumar Tripathi*

(supra).

34. The decision in *Anurag Vijaykumar Goel* (supra) would not be of assistance to the petitioners side as in that case, the allegations made under section 498A IPC were found to be non specific, unsubstantiated and vague. In *Dr. Sushil Kumar Purbey* (supra), the High Court had restricted the quashing of criminal proceeding only to the sister-in-law, but when it was taken up for appeal before the Hon'ble Apex Court, it was found and held that the allegations against the appellants were same as that made against the sister-in-law granted relief by the High Court. Upon such determination, similar relief was granted to the appellants. In the instant case, this Court has found that the allegations against the petitioners do not stand on the same footing, as there are some allegations against the husband, mother-in-law and the father-in-law as well. Only with regard to the sister-in-law, the allegations are perhaps on a somewhat different footing. The decision in *Geddam Jhansi & Anr* (supra) would not be very relevant, as in that case also, the Court held that mere generalized allegations may not constitute offence under section 498A IPC.

35. Coming back to the facts of the instant case – this Court is of the opinion that the allegations against the husband, mother-in-law and father-in-law are of such a nature that quashing the proceedings with regard to them would be prejudging the facts and which therefore, should be allowed to be tested by some evidence during the proceeding before the learned Court below.

36. However, with regard to the sister-in-law of the aggrieved person (petitioner no. 4), the only allegation against her is by way of a solitary

statement of the aggrieved person, that she along with other family members instigated the husband of the aggrieved person and his parents to inflict domestic violence upon her. Another allegation against her was that, after the mother-in-law insulted the aggrieved person over the matter of dowry, the petitioner no. 4 asked the aggrieved person not to reveal it to others. The petitioner no. 4 (sister-in-law) is also stated to be residing in Bihar and the materials prima facie indicated that the aggrieved person did not live in the shared household with her. Therefore, under the circumstances, the case of the sister-in-law perhaps would fall within the *small window* indicated *Shaurabh Kumar Tripathi* (supra), whereby the inherent powers can be exercised to quash a proceeding under the DV Act. The circumstances pertaining to the sister-in-law would perhaps indicate that she was unnecessarily roped in by the aggrieved person and making her subject to a proceeding under the DV Act would perhaps be grossly unjust and her case would fall within the limited scope of exercise of inherent powers with regard to a proceeding under the DV Act.

37. Accordingly, in the factual matrix of the instant case and in the backdrop of the above discussion – the initiation of a proceeding under the DV Act against the petitioner no. 4 namely, Smt. Shamma Parveen, sister-in-law of the aggrieved person is hereby **set aside** and **quashed**.

38. However, with regard to the petitioner nos. 1, 2 and 3, being the husband, father-in-law and mother-in-law respectively, of the aggrieved person – this Court does not find sufficient merit for quashing the proceeding under the DV Act with regard to them and to that extent, their prayers are **rejected**. The proceeding under the DV Act (Misc D.V case No. 24/2024,) pending before the learned JMFC, Tinsukia shall continue

with regard to petitioner nos. 1, 2 and 3, namely - Shri. Parvez Alam, Shri. Tahir Hussain Ansari, Smt. Naseema Begum .

39. Interim order, passed vide order dated 21.08.2025, staying further proceeding before the learned JMFC, stands vacated.

40. The instant criminal petition **is allowed** with regard to petitioner no. 4. and **is dismissed** with regard to petitioner nos. 1, 2 and 3.

41. The criminal petition accordingly stands disposed of.

JUDGE

Comparing Assistant