



2026:AHC:57945

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 8040 of 2026

Amit Kumar And 2 Others

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Sanjay Kumar Pandey
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE DEEPAK VERMA, J.

1. Learned counsel for the applicants is permitted to make correction in the array of parties during the course of the day,
2. Heard learned counsel for the applicants; learned A.G.A. for the State and perused the record.
3. The present 528 B.N.S.S. application has been filed to quash the exparte order dated 25.03.2025 passed by Civil Judge (J.D.) F.T.C.-2, Gautam Buddh Nagar in Complaint Case No.26 of 2019 (Smt. Pinki @ Megha Vs. Amit Kumar and others), under Sections 12, 17, 18, 19, 20, 22, 23 Protection of Women from Domestic violence Act, 2005, Police Station Section 58 NOIDA, District Gautam Buddh Nagar.
4. Learned counsel for the applicants submits that the applicant no.1 is the husband of the opposite party no.2 and marriage was solemnized in the year 2015 but after some matrimonial dispute, opposite party no.2 lodged the present proceedings against the applicants and the learned Magistrate has issued notice but notice was not served upon applicants, therefore, applicants could not appear before the trial court. The learned trial court proceeded exparte against the applicants by order dated 25.03.2025 with observation that the applicants paid Rs.10,000/- per month to the opposite party no.2 as maintenance. He further submits that the present order was passed exparte without hearing the applicants.
5. Learned A.G.A. has opposed the prayer made by learned counsel for

the applicants.

6. The Hon'ble Apex Court in **Shaurabh Kumar Tripathi Vs. Vidhi Rawal reported in 2025 SCC Online 1158**. The relevant paragraphs nos. 35 and 36 are quoted herein below:-

" 35. 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 Courts 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.

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."

7. Considering the arguments raised by learned counsel for the applicants, the order has passed after hearing opposite party no.2, applicants did not appear before the trial court and court has passed exparte order for maintenance, which is just and proper. The applicant has remedy under Section 29 of the D.V. Act for filing appeal.

8. No interference is warranted. The prayer for quashing the proceedings is hereby refused.

9. However, applicants are directed to file an appeal before the trial court, in accordance with law. The appeal of the applicants shall be decided by the trial court considering all the facts and circumstances, within a period of four weeks.

10. With the aforesaid observations, the application under Section 528 of B.N.S.S. is **disposed of**.

(Deepak Verma,J.)

March 19, 2026

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