2026:AHC:225827

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6433 of 2026

Chaudhary Manish Singh

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Revisionist(s) : Anand Mohan Pandey, Krishan Mohan Pandey

Counsel for Opposite Party(s) : G.A.

Court No. - 83

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard Mr. Anand Mohan Pandey, learned counsel for the revisionist and Mr. Pankaj Kumar, learned AGA for the State.

2. Learned counsel for the revisionist submits that he has preferred the instant criminal revision with the relief which has been mentioned in the prayer clause of the revision. The relief which has been mentioned in the prayer clause is delineated below:-

> *"It is, therefore, Most Respectfully prayed that this Hon'ble Court may kindly be pleased to admit and allow the present criminal revision, calls for the records of the case from the court below and set aside the impugned order dated 8.9.2026 passed by Additional Sessions Judge /F.T.C-I Agra in criminal appeal No.111 of 2026 (Chaudhary Manish Singh Vs. State of U.P. and another) and that of impugned order dated 8.10.2024 passed by Civil Judge (J.D.) /F.T.C-I Agra in Case No. 14837 of 2023 (Pratigya Vs. Chaudhary Manish Singh and others) under section 12 of Protection of Women From Domestic Violence Act) Police Station Shahganj District Agra otherwise the revisionist shall suffer irreparable loss and injury And/or pass such other and further order which this Hon'ble Court may deem fit and proper under the circumstances of the*

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case."

3. Learned counsel for the revisionist submits that the marriage of the revisionist was solemnized with opposite party No. 2 on 27.11.2014. He further submits that opposite party No. 2-wife has initiated criminal proceedings against the revisionist alleging cruelty and demand of dowry. He further submits that proceeding for maintenance has also been initiated under the Code of Criminal Procedure. He further submits that opposite party No. 2 has been residing separately since 2018 without any sufficient reason.

4. Learned counsel for the revisionist further submits that opposite party No. 2 has filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the Act, 2005'), seeking reliefs under Sections 18, 19, 20 and 22 of the said Act. For ready reference, Section 12 of the Act, 2005 is delineated below:

> *"**12. Application to Magistrate-** (1)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:*
>
> > ***Provided that** before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.*
>
> *(2)The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:Provided that where a decree for any amount as compensation or damages has been passed by any Court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for*

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the balance amount, if any, left after such set off.

(3)Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4)The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the Court.

(5)The Magistrate shall ***endeavour*** *to dispose of every application made under sub-section (1) within a period of* ***sixty days*** *from the date of its first hearing."*

5. Learned counsel for the revisionist submits that the revisionist-husband raised a preliminary objection by filing an application under Section 468 Cr.P.C. on the ground that the proceedings initiated under Section 12 of the Act, 2005, as well as the reliefs sought therein, are barred by limitation. He has placed reliance upon Section 468 Cr.P.C., which provides that no Court shall take cognizance of an offence after the expiry of the period of limitation prescribed therein. However, the trial court as well as the appellate court have erroneously rejected the said application filed by the revisionist.

6. For ready reference, Section 468 Cr.P.C. is delineated below:

*"**468. Bar to taking cognizance after lapse of the period of limitation-***

(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in Sub-Section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year

(c) three years, if the offence is punishable with

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> *imprisonment for a term exceeding one year but not exceeding three years.*
>
> *(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."*

7. Sri Pankaj Kumar, learned A.G.A., submits that the provisions of Section 468 Cr.P.C. are not applicable to the proceedings under Section 12 of the Act, 2005, and, therefore, the application filed by the revisionist under Section 468 Cr.P.C. is not maintainable. He further submits that the said application has been filed only to delay the proceedings, whereas under Section 12(5) of the Domestic Violence Act, 2005, the Magistrate is under an obligation to endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

8. Learned A.G.A. further submits that the controversy regarding the applicability of Section 468 Cr.P.C. to proceedings under Section 12 of the Act, 2005, has already been settled by the Hon'ble Supreme Court in **Kamatchi v. Lakshmi Narayanan; (2022) 15 SCC 50**. He further submits that the Hon'ble Supreme Court has clearly held that filing of an application under Section 12 of the Act does not constitute an offence and that an offence arises only when the respondent breaches a protection order or an interim protection order passed by the Magistrate under the Act. Therefore, the limitation prescribed under Section 468 Cr.P.C. cannot be calculated from the date of filing of the application under Section 12 of the Act. He further submits that the Hon'ble Supreme Court has clarified that an application under Section 12 of the Act cannot be treated as a criminal complaint or initiation of prosecution.

9. For ready reference, the relevant observations made by the Hon'ble Supreme Court in **paragraph Nos. 19 and 28** of the judgment of **Kamatchi** (supra) are delineated below:

> *"19. Let us now consider the applicability of these principles to cases under the Act. The provisions of the Act contemplate filing of an*

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application under Section 12 to initiate the proceedings before the concerned Magistrate. After hearing both sides and after taking into account the material on record, the Magistrate may pass an appropriate order under Section 12 of the Act. It is only the breach of such order which constitutes an offence as is clear from Section 31 of the Act. Thus, if there be any offence committed in terms of the provisions of the Act, the limitation prescribed under Section 468 of the Code will apply from the date of commission of such offence. By the time an application is preferred under Section 12 of the Act, there is no offence committed in terms of the provisions of the Act and as such there would never be a starting point for limitation from the date of application under Section 12 of the Act. Such a starting point for limitation would arise only and only after there is a breach of an order passed under Section 12 of the Act.

28. It is thus clear that the High Court wrongly equated filing of an application under Section 12 of the Act to lodging of a complaint or initiation of prosecution. In our considered view, the High Court was in error in observing that the application under Section 12 of the Act ought to have been filed within a period of one year of the alleged acts of domestic violence."

10. Learned A.G.A. further submits that the Division Bench of this Court in **Reference in Re: Trilochan Singh v. Manpreet Kaur and Another,** in **Misc. Single No. 4177 of 2012**, decided on 23.10.2021, has also taken a similar view. The Division Bench has categorically held that Section 468 Cr.P.C. has no applicability to an application filed under Section 12 of the Domestic Violence Act, 2005, as the proceedings under the said provision are for seeking statutory reliefs and do not involve taking cognizance of an offence.

11. For ready reference, **paragraphs 55 and 56** of the aforesaid judgment are delineated below:

"55. Section 468 Cr.P.C. speaks about taking of "cognizance of an offence" and the acts of domestic violence described in the D.V.Act are not offences under the D.V.Act, hence taking of the cognizance of offence is out of question, therefore, applicability of Section 468 Cr.P.C. for acting upon the applications moved under Section 12 of the D.V.Act does

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not seem just and legal. In other words, Section 468 Cr.P.C. has no application as far as the applications under Section 12 of the D.V.Act are concerned.

56. Thus, it is concluded that Section 468 Cr.P.C. has no applicability for filing complaint under Section 12 of the D.V.Act. The question no.(i) is answered accordingly. "

12. This Court has perused the provisions of Section 468 Cr.P.C. and finds that the said provision prescribes the period of limitation for taking cognizance of offences punishable with imprisonment up to six months, one year and three years, respectively. However, under the provisions of the Domestic Violence Act, 2005, there is no specific punishment prescribed in respect of the reliefs sought under Sections 18, 19, 20, 21 and 22 of the said Act. Section 18 provides for protection orders, Section 19 deals with residence orders, Section 20 provides for monetary reliefs, Section 21 deals with custody orders in respect of children and Section 22 provides for compensation orders.

13. For ready reference, Sections 18,19, 20, 21 and 22 of the Act, 2005 are delineated below respectively:

*"**Section 18. Protection orders.-** The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from—*

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or

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electronic or telephonic contact;

(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;

(f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;

(g) committing any other act as specified in the protection order.

Section 19. Residence orders.- *(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—*

(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;

(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;

(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;

(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

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(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that *no order under clause (b) shall be passed against any person who is a woman.*

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

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

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer-in-charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer-in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

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Section 20. Monetary reliefs.- *(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but is not limited to,—*

(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in-charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved

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person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Section 21. Custody orders.- *Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:*

Provided that *if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.*

Section 22. Compensation orders.- *In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent."*

14. Sections 31, 32 and 33 of the Protection of Women from the Domestic Violence Act, 2005 are applicable after passing of a protection order or relief order by the competent court of law. As per Section 31 of the Act, 2005, punishment is prescribed for breach of a protection order or an interim protection order. For ready reference, Section 31 of the said Act is delineated below:

31. Penalty for breach of protection order by respondent.- *(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.*

(2) The offence under sub-section (1) shall as far as practicable be tried

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by the Magistrate who has passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

15. The provisions relating to cognizance and proof are contained in Section 32 of the Domestic Violence Act, 2005, whereas Section 33 provides for penalty for failure on the part of the Protection Officer to discharge his duties:

32. Cognizance and proof.- *(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.*

(2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

33. Penalty for not discharging duty by Protection Officer.- *If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.*

16. This Court has considered the submissions advanced by learned counsel for the revisionist as well as learned A.G.A. for the State and perused the record. The Hon'ble Supreme Court, in paragraph No. 19 of the judgment of **Kamatchi** (supra), has clearly held that filing of an application under Section 12 of the Domestic Violence Act, 2005, does not constitute an offence and that an offence arises only when the respondent breaches a protection order or an interim protection order passed by the Magistrate under the Act. The Hon'ble Supreme Court has further clarified in paragraph No. 28 that filing of an application under

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Section 12 of the Act cannot be equated with lodging of a criminal complaint or initiation of prosecution. A similar view has also been taken by the Division Bench of this Court in **Trilochan Singh** (supra), wherein it has been held that Section 468 Cr.P.C. has no applicability to an application filed under Section 12 of the Act.

17. This Court finds that Section 468 Cr.P.C. deals with the limitation for taking cognizance of offences punishable under the law. However, the application filed under Section 12 of the Domestic Violence Act, 2005, is for seeking reliefs provided under Sections 18, 19, 20 and 22 of the said Act, which are not offences. The offences and punishments are separately provided under Sections 31 and 33 of the Act, 2005. In the present case, no protection order or interim protection order has yet been passed, nor has any occasion arisen for invoking the penal provisions of Sections 31, 32 and 33 of the Act, 2005, therefore, the provisions of Section 468 Cr.P.C. are not attracted to the proceedings in question.

18. This Court further finds that the revisionist, instead of contesting the application on its merits before the trial court, has raised a preliminary objection under Section 468 Cr.P.C., which is not applicable to the reliefs claimed under the Act, 2005. Such an objection would unnecessarily delay the proceedings and defeat the object of the Act, which provides for speedy relief to the aggrieved person. Thus, the application filed by the revisionist appears to be an attempt to delay the proceedings rather than contesting the matter on its merits. Accordingly, no interference is warranted by this Court in the impugned orders dated 08.09.2026 passed by the Additional Sessions Judge /F.T.C-I Agra and 08.10.2024 passed by the Civil Judge (J.D.) /F.T.C-I Agra.

19. In view of the aforesaid observations, the revision is **dismissed** with a direction to all the courts dealing with cases under the the Protection of Women from the Domestic Violence Act, 2005 to make an endeavour to decide the pending proceeding within 60 days as provided under Section 12(5) of the Act, 2005, including execution proceedings also; otherwise, the trial court shall frustrate the mandate and spirit of law, which would lead to the conduct of the Judicial Officers being called into question.

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20. Registrar (compliance) is directed to communicate this order to the Presiding Officers of the Gram Nyayalaya, Judicial Magistrates and the District and Sessions Judge, Agra as well as transmit a copy of this order to the Judicial Training and Research Institute, U.P. Lucknow (J.T.R.I.), for the academic purposes of the Judicial Officers.

(Praveen Kumar Giri,J.)

October 30, 2026
K.Tiwari

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Digitally signed by :-
KRISHNA KANT TIWARI
High Court of Judicature at Allahabad