* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: February 27, 2025***
Pronounced on: May 14, 2025

\+ **CRL.M.C. 1000/2018 & Crl.M.A. 3634/2018 (Stay)**

1. **SUSHILA DEVI MITTAL**
BD-57, Vishakha Enclave,
Pitampura, Delhi-110034

.....Petitioner No.1

2. **AMIT MITTAL**
BD-57, Vishakha Enclave,
Pitampura, Delhi-110034

.....Petitioner No. 2

Through: Mr. Amit Gupta, Ms.Muskan Nagpal,
Mr.Kshitij Vaibhav &
Mr.H.S.Mahapatra, Advocates

Versus

SHIKHA GARG
R/o, Flat no.-601, Tower no.31,
CWG Village, Near Akshardham Temple,
Delhi- 110092

.....Respondent

Through: Mr. Avadh Bihari Kaushik, Advocate

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "**Cr.P.C.**"*), has been filed on behalf of the Petitioners seeking quashing of Domestic Violence Complaint Case No. 4219/2017 dated 30.11.2017, filed by the Respondent-Complainant-Smt. Shikha Garg, *under Section 12 read with Sections 18, 19, 20 and 22* of the Protection of Women from Domestic Violence Act, 2005 (*hereinafter referred to as "**DV Act**"*) and all proceedings emanating therefrom.

2. ***Briefly stated,*** Respondent-Complainant-Smt. Shikha Garg, married to Sh. Ajit Mittal, son of Petitioner No. 1-Smt Sushila Devi and brother of Petitioner No.2-Sh. Amit Mittal on 26.02.2002 at New Delhi. After her marriage, the Respondent/Complainant-Smt. Shikha Garg resided with her Husband-Sh. Ajit Mittal and his family members at Property bearing No.1, Sri Nagar Extension, Ashok Vihar, Phase-3, Delhi.

3. From this wedlock, a daughter was born on 12.05.2003 and a son was born on 06.05.2007.

4. Soon after their wedding, differences started to occur between Respondent-Complainant-Smt. Shikha Garg and her Husband-Ajit Mittal and his family members. It is submitted on behalf of the Petitioners that due to such differences, on 28.12.2004, the parents of the Husband-Sh. Ajit Mittal issued a Public Notice in the daily newspaper "*The Statesman*," declaring that they had terminated all relations with their son-Sh. Ajit Mittal and Respondent/Complainant-Smt. Shikha Garg.

5. On 10.09.2017, a Police Complaint was filed by the Respondent-Complainant-Smt. Shikha Garg at Police Station Mandawali, Delhi, on which FIR No. 412/2017 under Sections 342/323/506 IPC against her

Husband-Sh. Ajit Mittal was registered in which he was subsequently arrested. Later, Sections 354B and Section 377 IPC were also added in the said FIR. He was released on bail on 11.10.2017.

6. Thereafter, on 30.11.2017, the Respondent-Complainant- Smt. Shikha Garg filed the Impugned Complaint under Section 12 of DV Act, 2005 wherein she has prayed for prohibition and injunction against the Petitioners from repeating any act of domestic violence and prohibiting them from entering into the place of her residence; prohibiting Petitioners from alienating her from Properties bearing No. B-3/53, Rajasthali Apartment, Pitampura; Flat Bearing no. B-4/54 Rajasthali Apartment, Pitampura; Flat bearing No.604F Jhule Lal Apartment, Pitampura and Flat bearing No. BD-57 Vishakha Enclave, Pitampura and also sought a direction to the Petitioners to pay rent of Rs.61,000/- in respect of accommodation Flat 601, Tower 31, CWG Village, Delhi-92, where she is presently residing with her children.

7. *Vide* Order dated 18.12.2017, the Husband-Sh. Ajit Mittal, Smt. Sushila Devi (Mother-in-law/Petitioner No.1) and Sh. Amit Mittal (Brother-in-law/Petitioner No.2) were summoned; however, Smt. Archna Mittal *(married elder sister in law)* was not summoned.

8. Sh. Ajit Mittal, Husband of the Respondent Complainant died on 28.12.2017. The Petitioner No.1- Smt. Sushila Mittal also passed away on 13.10.2024.

9. *The present Petition now survives only qua Petitioner No.2-Sh. Amit Mittal, brother-in-law of the Respondent-Complainant-Smt. Shikha Garg.*

10. ***It is submitted on behalf of Petitioner No.2-Shri Amit Mittal*** that there are no specific allegations against him and only general allegations have been levelled in Complaint dated 30.11.2017. He has further submitted that he has never interacted or communicated with the Complainant since 2003, as she has been living separately with her Husband Sh. Ajit Mittal.

11. ***The Respondent-Complainant-Smt. Shikha Garg in her Reply*** has asserted that serious and specific allegations have been made against the Petitioners in the Complaint dated 30.11.2017 and the averments made by Petitioner No.2-Sh.Amit Mittal are false and misleading**.**

12. The Respondent-Complainant-Smt. Shikha Garg has asserted that all parties resided in Ashok Vihar, Phase 3, Delhi, where she was subjected to abuse and domestic violence. As per Section 2(f) DV Act, individuals who have at any point of time lived in a *shared household*, fall within the ambit of a "*domestic relationship*." Reliance was placed on the-judgment of the Apex Court in *V.D. Bhanot v. Savita Bhanot*, (2012) 3 SCC 183 wherein it was held that even conduct preceding the enactment of the DV Act, can be considered while passing Orders under Sections 18, 19, and 20 of the Act.

13. ***In the Rejoinder, Petitioner- Sh. Amit Mittal has submitted*** that the provisions of the DV Act were wrongly invoked, as he had not visited the Complainant in the last 16 years. A copy of Letter dated 15.06.2002, allegedly handwritten by the Respondent to her Husband-Sh. Ajit Mittal, seeking apology for her conduct, was also placed on record.

14. ***Petitioner No.2 – Shri Amit Mittal in his Written Submission*** has submitted that Complaint dated 30.11.2017 under Section 12 DV Act is time-barred, having been filed 16 years after the alleged acts of harassment.

Reliance has been placed on *Jaswinder Kaur v. State of Punjab*, 2013 SCC OnLine P&H 102, *Gurudev v. Jayashree*, 2014 SCC OnLine Kar 752, *Nishant Hussain v. Seema Saddique*, 2012 SCC OnLine Raj 2873, J. *Srinivas v. G. Dhanalakshmi*, 2013 SCC OnLine Kar 2773 *Vikrant Sudhakar Ambhore v. Varsha Vikrant Ambhore* 2014 ALL MR (Cri) 2826, *Sejal Dharmesh Ved v. State of Maharashtra*, 2013 SCC OnLine Bom 2309.

15. Further reliance was placed on *Geddam Jhansi v. State of Telangana*, 2025 SCC OnLine SC 263, wherein the Apex Court emphasized that Courts must exercise caution and be judicious in entertaining criminal proceedings arising out of domestic disputes; and such proceedings should only be entertained when specific allegations are made with supporting material.

16. ***In the Written Submissions, the Respondent-Complainant-Smt. Shikha Garg submitted*** that the present Petition is not maintainable, as Petitioner No.2- Sh. Amit Mittal has an alternative remedy of Appeal under Section 29 of the DV Act.

17. It is submitted that Petitioner No.2-Shri Amit Mittal continued to visit and harass the Respondent-Complainant-Smt. Shikha Garg at different locations where she resided. The Respondent-Complainant-Smt. Shikha Garg contends that she did reside with Petitioner No.2-Shri Amit Mittal for a specific period, during which she was subjected to harassment.

18. It is submitted that Petitioner No.2-Shri Amit Mittal, being the brother-in-law of the Respondent, falls within the definition of "*respondent"* under the DV Act.

19. Reliance was also placed on the Apex Court judgement in *Prabha Tyagi v. Kamlesh Devi*, (2022) 8 SCC 90, wherein, it was discussed that the domestic relationship between the aggrieved person and the person against whom the relief is claimed, must be interpreted in a broad manner to not only to include subsisting domestic relationship, but also a past domestic relationship.

20. **Submissions heard and record perused.**

21. From the perusal of the record, it emerges that that though immediately after marriage in 2002, the Respondent-Complainant-Smt. Shikha Garg had come to her matrimonial home but soon thereafter, she and her Husband-Sh. Ajit Mittal had separated and had been residing in Nilgiri Apartments, Barakhamba Road, New Delhi and other accommodations, away from in-laws. Because of the matrimonial disputes, the in-laws distanced themselves from the Complainant-Smt. Shikha Garg. The father even took out a Public Notice in the daily Newspaper on 28.12.2004 stating that they have terminated all the relationship with their son-Sh. Ajit Mittal and Daughter-in-law-Complainant-Smt. Shikha Garg.

22. A perusal of the Complaint dated 30.11.2017 shows that essentially on the allegations of harassment, dowry demands etc., the Respondents were summoned. Though specific allegations have been raised against Husband-Sh. Ajit Mittal (now deceased) and Petitioner No.1-Smt. Sushila Devi Mittal (now deceased), but the allegations levelled against Petitioner No.2-Sh. Amit Mittal are general in nature. The allegations made against Petitioner No.2-Sh. Amit Mittal are as under:-

a) *The Complainant-Smt. Shikha Garg resided with all family members, including Petitioner No.2-Sh. Amit Mittal, after her marriage and was allegedly subjected to sexual, verbal, and physical harassment.*

b) *Petitioner No.2-Sh. Amit Mittal once remarked that their family had made a mistake in choosing the Complainant-Smt. Shikha Garg as a bride and that they had better matrimonial prospects from wealthier families.*

c) *After initially leaving the matrimonial home, the Complainant-Smt. Shikha Garg came back upon the Husband-Shri Ajit Mittal's assurance that his family would not trouble her. Despite this, Petitioner No.2-Shri Amit Mittal allegedly continued to harass the Complainant,Smt. Shikha Garg.*

d) *In 2003, the Complainant shifted to Nilgiri Apartment, Barakhamba Road, New Delhi, with her Husband Sh.Ajit Mittal. Petitioner No.2-Shri Amit Mittal allegedly continued to visit and harass her along with other family members.*

e) *Petitioner No.2-Shri Amit Mittal allegedly threatened to kill the Respondent-Complainant-Smt. Shikha Garg if she did not leave her Husband, Sh.Ajit Mittal.*

f) *During one of his visits, Petitioner No.2-Shri Amit Mittal allegedly became violent, twisted the arm of Respondent-Complainant-Smt. Shikha Garg, beat her severely, and threatened to kill her.*

g) *In June 2015, after moving to the CWG Flat, the Complainant was allegedly harassed by Petitioner No.2-Shri Amit Mittal during his visits.*

h) *It is further alleged that upon instigation of Petitioner No.2-Shri Amit Mittal, her Husband-Shri Ajit Mittal (now Deceased) demanded money for business needs and property papers of her father's house and subjected her to physical abuse.*

i) In December 2016, Petitioner No.2-Sh. Amit Mittal, along with Petitioner No.1-Smt. Sushila Devi and Smt. Archana Mittal, visited her and demanded her jewellery. Upon refusal, the family members, particularly Smt. Archana Mittal, became angry on her.

23. Pertinently, the Complainant-Smt. Shikha Garg and her Husband-Sh. Ajit Mittal, as per the averments made in the Complaint dated 30.11.2017, had shifted to independent Flat in 2003 and her Husband was having multiple businesses. There are no specific incidents or dates given by the Complainant-Smt. Shikha Garg, against the Petitioner No.2, her brother-in-law who alone survives. The allegations levelled against Petitioner No. 2-Sh. Amit Mittal are mentioned above, from where it can be assessed that the allegations are general in nature and non specific, which reflects an endeavour by the Complainant-Smt. Shikha Garg to some how rope in all the family members. The Sister of the Husband was also named in the Complaint dated 30.11.2017 though she was not summoned. The allegations made as referred to above, were essentially against the Husband and mother-in-law, who are both dead. Furthermore, the Complainant-Smt. Shikha Garg is at present residing in CWG house in which there is no specific averment of there being any threat by Petitioner No. 2- Sh. Amit Mittal of dispossession or otherwise.

24. In view of the above, prima facie no acts of Domestic violence are made out against Petitioner No.2-Sh. Amit Mittal. The Petition is allowed and the Impugned Summoning Order dated 30.11.2017, is hereby set aside.

25. The present Petition and pending Application(s) are accordingly, disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 14, 2025
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