



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 18TH DAY OF SEPTEMBER 2026 / 27TH BHADRA, 1948

CRL.MC NO. 7248 OF 2026

AGAINST THE ORDER DATED 27.06.2026 IN CMP 1/2026 IN MC
NO.77 OF 2026 OF JUDICIAL MAGISTRATE OF FIRST CLASS -IV,
KOZHIKODE

PETITIONERS/RESPONDENTS 4 AND 5:

1 A

2 R

BY ADVS.
SMT.MITHA SUDHINDRAN
SRI.RIJI RAJENDRAN
SHRI.R.S.DIWAAGAR
SHRI.BHARADWAJARAMASUBRAMANIAM R.
SMT.SOORYA M.
SMT.NASRIN WAHAB
SMT.DEVIKA SANTHOSH KUMAR

RESPONDENT/PETITIONER:

S

BY ADVS.
SRI.P.JERIL BABU
SHRI.SRINATH GIRISH
SRI.P.N.HARISH BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
09.09.2026, THE COURT ON 18.09.2026 PASSED THE FOLLOWING:

**"C.R."****ORDER**

This petition is filed by respondent Nos. 4 and 5 in M.C. No. 77 of 2026 on the file of the Judicial First Class Magistrate Court-IV, Kozhikode. The said M.C. was instituted by the petitioner therein seeking various reliefs under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as "the PWDV Act").

2. I heard the learned counsel for the petitioners as well as the learned counsel for the respondent.

3. The learned counsel for the petitioners submitted that the proceedings initiated against the petitioners/respondent Nos. 4 and 5 under Section 12 of the PWDV Act are actuated by ulterior motives and that there is absolutely no material to establish that, at any point in time, the petitioners herein resided in a shared household with the alleged aggrieved person. According to the learned counsel, in order to array a person as a respondent in a proceeding under the PWDV Act, it must be established that such person is or has been in a domestic relationship with the aggrieved person. It was further submitted that, apart from certain general and omnibus allegations, no specific or serious acts of domestic violence have been attributed to the petitioners herein. Therefore, according to the learned counsel, the fourth and fifth respondents, who



are the brother-in-law and sister-in-law of the petitioner, cannot, by any stretch of imagination, be brought within the definition of "respondent" under Section 2(q) of the PWDV Act. The learned counsel further submitted that, unless it is established that the alleged perpetrator of domestic violence and the aggrieved person lived together in a shared household, being related by consanguinity, marriage, adoption, or through a relationship in the nature of marriage, or as family members living together as a joint family, the petitioners herein cannot be treated as respondents for the purposes of the PWDV Act. It was urged that there are neither pleadings nor materials to indicate that the petitioners herein ever lived together with the aggrieved person in a shared household or that they were members of a joint family residing together. According to the learned counsel, the petitioners were arrayed as respondents without any legal basis and solely with the intention of harassing them. It was therefore submitted that the proceedings initiated against the petitioners amount to an abuse of the process of law and are liable to be quashed at the threshold.

4. Per contra, the learned counsel for the respondent submitted that there are specific allegations against the petitioners herein. It was further submitted that the question as to whether the acts of domestic violence alleged in the petition were in fact perpetrated by the petitioners is a



matter which can be conclusively determined only after a full-fledged trial and, therefore, termination of the proceedings at the threshold would be unjustified. The learned counsel further contended that a petition invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "the BNSS") to quash proceedings arising from an application under Section 12 of the PWDV Act is not legally maintainable, as such proceedings are predominantly civil in nature. On these grounds, the learned counsel sought dismissal of the present Crl. M.C.

5. As evident from the records, the petitioner in the original M.C. approached the jurisdictional Magistrate by filing an application under Section 12 of the PWDV Act seeking various reliefs under the provisions of the said Act. In the said application, the husband of the petitioner was arrayed as the first respondent. The second and third respondents are the parents of the first respondent, while the fourth and fifth respondents are the brother-in-law and sister-in-law of the petitioner. It is respondent Nos. 4 and 5 who have approached this Court by filing the present petition, seeking quashing of the proceedings against them, mainly on the ground that they had never lived with the petitioner in a shared household at any point in time and, consequently, could not be said to have been in a domestic relationship with her. According to the petitioners, therefore,



they could not legally be brought within the definition of “respondent” under the PWDV Act, and the proceedings against them are liable to be quashed.

6. Undisputedly, this Court possesses inherent jurisdiction under Section 528 of the BNSS, which corresponds to Section 482 of the Code of Criminal Procedure, 1973, to pass such orders as may be necessary to prevent abuse of the process of any court or otherwise to secure the ends of justice. However, such jurisdiction is extraordinary in nature and is to be exercised sparingly, cautiously and in exceptional circumstances. The power cannot be exercised merely because a person against whom proceedings under the PWDV Act have been initiated takes the stand that the allegations contained in the application are false, frivolous or exaggerated.

7. In **Vijayalekshmi Amma V. K. (Dr.) and Another v. Bindu V. and Others** [2010 (1) KLT 79], this Court held that a petition under Section 12 of the PWDV Act seeking reliefs thereunder is predominantly civil in nature and that, ordinarily, the High Court should not invoke its inherent jurisdiction under Section 482 of the Cr.P.C. to quash such proceedings. It was further held that a party against whom proceedings have been initiated under the Act has an adequate remedy before the jurisdictional Magistrate and, therefore, interference by the High Court is



ordinarily unwarranted.

8. However, in **Shaurabh Kumar Tripathi v. Vidhi Rawal** [2025 KHC Online 6517], the Hon'ble Supreme Court held that the High Court can exercise its jurisdiction under Section 482 of the Cr.P.C. to quash proceedings emanating from an application under Section 12(1) of the PWDV Act pending before the Magistrate. At the same time, having regard to the object and purpose of the PWDV Act, the Hon'ble Supreme Court cautioned that such power must be exercised with due care and circumspection and that interference would ordinarily be warranted only in cases of gross illegality or where continuation of the proceedings would result in manifest injustice.

9. Thus, it is clear that the inherent jurisdiction under Section 528 of the BNSS, corresponding to Section 482 of the Cr.P.C., is available, in appropriate cases, to quash proceedings arising from an application under Section 12 of the PWDV Act. However, such jurisdiction is to be exercised only where the materials on record clearly demonstrate that continuation of the proceedings would amount to an abuse of the process of law or that interference is necessary to secure the ends of justice. The mere existence of disputed questions of fact or a contention that the allegations are false would not, by itself, justify such interference.

10. Keeping the above principles in mind, while reverting to the case



at hand, it is to be noted that the main contention raised by the petitioners, who are respondent Nos. 4 and 5 in the original M.C., is that they had never lived together with the alleged aggrieved person at any point in time and, consequently, there was no domestic relationship between them, which, according to the petitioners, is a sine qua non for initiating proceedings against them under the PWDV Act.

11. In order to examine the said contention, it is necessary to consider whether the petitioners could, in law, be arrayed as respondents in the proceedings pending before the learned Magistrate. In this context, Section 2(q) of the PWDV Act defines the expression "respondent" as follows:

*"respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought relief under this Act:
Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;*

12. The Hon'ble Supreme Court, in **Hiral P. Harsora and Others v. Kusum Narottamdas Harsora and Others** [2016 (5) KHC 15], considered the expression "adult male person" under Section 2(q) of the PWDV Act and held that there was no rational basis for restricting the expression "respondent" to adult males alone. It was consequently held that a woman can also be arrayed as a respondent in proceedings under the PWDV Act.



13. Significantly, in the present case, the petitioners do not contend that a woman cannot be arrayed as a respondent in a proceeding under the PWDV Act. Their specific contention is that there is nothing in the application to establish that they were in a domestic relationship with the aggrieved person at any point in time. Therefore, it becomes necessary to examine the statutory definition of “domestic relationship” contained in Section 2(f) of the PWDV Act, which reads as follows:

“domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

14. A bare reading of the aforesaid provision makes it clear that, in order to bring a person within the ambit of a “domestic relationship”, it must be established that the parties live, or have at any point in time lived, together in a shared household and that their relationship falls within one of the categories contemplated under the provision, namely, consanguinity, marriage, a relationship in the nature of marriage, adoption, or being family members living together as a joint family. The provision, however, does not require the parties to be presently residing together. The statutory requirement is satisfied if they had lived together in a shared household at any point in time.

15. In the present case, it is significant that the application filed



under Section 12 of the PWDV Act does not state anywhere that respondent Nos. 4 and 5, who are the brother-in-law and sister-in-law of the petitioner, had lived with the petitioner at any point in time. There are no pleadings indicating that the respondent Nos. 4 and 5 had ever shared a household with the petitioner in the original M.C. or that they had lived together with her as members of a joint family.

16. This Court is cognizant of the fact that proceedings under the PWDV Act are not to be tested by applying the strict standards of pleadings applicable to a civil suit. Nevertheless, an application seeking relief under the PWDV Act must disclose, at least in substance, the foundational facts constituting a domestic relationship. The statutory requirement cannot be dispensed with altogether. If an application is completely silent as to when the sister-in-law and her husband resided with the aggrieved person, whether they were members of a common household, or whether they had ever shared a household with the aggrieved person, and merely arrays them as respondents on the basis of omnibus allegations, such persons cannot be brought within the statutory definition of "respondent" in the absence of any material indicating the existence of a domestic relationship. There must be some factual foundation, either in the pleadings or in the materials accompanying the application, indicating that the parties had lived together in a shared household at some point in time. The absence of



a detailed or technically worded pleading may not, by itself, be fatal; however, the complete absence of any factual foundation regarding the existence of a domestic relationship cannot be overlooked.

17. The Hon'ble Supreme Court, in **Satish Chander Ahuja v. Sneha Ahuja** [2020 (5) KHC 496], had considered in detail the use of the expression "lives or at any stage has lived in a domestic relationship." In paragraph 63 of the said judgment, the Supreme Court observed that the words "lives or at any stage has lived in a domestic relationship" have to be given its normal and purposeful meaning. The living of a woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household.

18. In the present case, there is not even a pleading, much less any supporting material, to indicate that respondent Nos. 4 and 5 had ever lived with the petitioner in a shared household. The omnibus allegations against them, in the absence of any factual foundation demonstrating the existence of a domestic relationship as contemplated under Section 2(f) of the PWDV Act, cannot be treated as sufficient to sustain the proceedings against them.

19. In the circumstances, this Court is of the considered view that the materials on record do not disclose the existence of any domestic



relationship between the petitioner and respondent Nos. 4 and 5. In the absence of such a foundational requirement, continuation of the proceedings against them under the PWDV Act would amount to an abuse of the process of law and would warrant interference in exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS.

Resultantly, this Crl.M.C. is allowed. The proceedings against the petitioners, who are respondent Nos. 4 and 5 in M.C. No. 77 of 2026 on the file of the Judicial First Class Magistrate Court-IV, Kozhikode, are hereby quashed. It is made clear that the proceedings in the said M.C. shall continue against the remaining respondents in accordance with law.

Sd/-

**JOBIN SEBASTIAN
JUDGE**

SFS

**APPENDIX OF CRL.MC NO. 7248 OF 2026****PETITIONER ANNEXURES**

Annexure-A	APPLICATION IN MC 77/2026 PENDING ON THE FILES OF THE JUDICIAL MAGISTRATE OF FIRST CLASS - IV, KOZHIKODE.
Annexure-B	E- COURTS STATUS OF MC NO. 77/2026
Annexure-C	TRUE COPY OF THE INTERIM ORDER PASSED IN CMP 01/2026 IN MC NO. 77/2026
Annexure C(a)	TYPED COPY OF THE INTERIM ORDER DATED 27.06.2026 PASSED IN CMP 01/2026 IN MC NO. 77/2026 PENDING ON THE FILES OF JFCM-IV, KOZHIKODE
Annexure-D	NOTICE SERVED ON THE PETITIONERS IN MC NO. 77/2026
Annexure-E	E- COURTS STATUS OF OP NO. 211/2023
Annexure-F	E- COURTS STATUS OF OP NO. 864/2023
Annexure-G	COPY OF THE AADHAR CARDS OF THE PETITIONERS