

# Ashish Singh vs Smt. Pushpa Singh & Ors on 3 February, 2025

**Author: Jasmeet Singh**

**Bench: Jasmeet Singh**

\$~44

\*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 6270/2018 & CRL.M.A. 43027/2019, CRL.M.  
24292/2022, CRL.M.A. 33241/2023, CRL.M.A. 33244  
ASHISH SINGH

Through: Petitioner-in-person

SMT. PUSHPA SINGH & ORS.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH  
ORDER

% 03.02.2025

1. This is a petition seeking to challenge the judgment dated 20.11.2018 passed by the learned Special Judge (PC Act) CBI, East District, Karkadooma Courts in Case No. 142/2018 titled "Ashish Singh vs. Pushpa Singh", wherein the learned Sessions Court upheld the order dated 28.09.2018, wherein the learned MM dismissed the application filed by the petitioner challenging the maintainability of the proceedings filed by the respondent under Section 12 of the DV Act.

2. It is stated by Mr. Singh, the petitioner who appears in-person that the complaint under Section 12 of the Domestic Violence Act, 2005 can only be filed within 1 year of the cause of action.

3. He relies on the judgment of "Inderjeet Singh Grewal vs. State of Punjab" passed in Crl. Appeal No. 1635/2011. He further states that in This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:23:49 the present case, the petitioner and the respondent were married in the year 2004 and admittedly, have been living separately from 28.11.2009.

4. The petitioner has relied upon the judgment of the Hon'ble Supreme Court in "M.C.D. vs. State of Delhi & Anr." passed in Appeal (Crl.) 660/2005 and more particularly the relevant portion which

reads as under:-

"....

A person whose case is based on falsehood can be summarily thrown out at any stage of litigation. We have no hesitation to say that a person whose case is based on falsehood has no right to approach the Court and he can be summarily thrown out at any stage of the litigation....."

5. He also relies on "Kamlesh Devi vs. Jaipal and Ors." passed in SLP (Crl.) 34053/2019 and more particularly the relevant portion which reads as under:-

"The High Court has rightly found in effect that the ingredients of domestic violence are wholly absent in this case. The petitioner and the respondents are not persons living together in a shared household. There is a vague allegation that the respondents are family members. There is not a whisper of the respondents with the petitioner. They appear to be neighbours. "

6. He further relies on "Sh. Narendra Kumar Srivastava vs. The State of Bihar" passed in Appeal (Crl.) 211/2019 to initiate action u/s 340 Cr.P.C against the respondent for filing false and frivolous affidavit before this Court and the Ld. Trial Court.

7. When the matter came up for hearing, before this Court on 11.12.18, This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:23:49 this court while issuing notice stayed the proceedings before the Ld. Trial Court. The stay is continuing for the last six years.

8. In the present case, a perusal of the material averments in the complaint under Sections 12/18/19/20 and 22 of Domestic Violence Act, 2005 shows that it is alleged that the petitioner and his family members have continuously harassed the respondent for dowry.

9. It is alleged that the petitioner and his family members have time and again thrown the respondent out of their house.

10. It is further stated that the respondent always wanted to stay at her matrimonial home and even on 27.03.2011, the respondent was not allowed to enter the matrimonial home. Thereafter, the complaint was filed.

11. I have gone through the judgments, heard arguments and perused the material on record.

12. The Hon'ble Supreme Court in "Krishna Bhattacharjee vs. Sarathi Choudhury and Anr." [(2016) 2 SCC 705] in paragraph 32 has observed as under:-

"32. Regard being had to the aforesaid statement of law, we have to see whether retention of stridhan by the husband or any other family members is a continuing offence or not. There can be no dispute that wife can file a suit for realisation of the stridhan but it does not debar her to lodge a criminal complaint for criminal breach of trust. We must state that was the situation before the 2005 Act came into force. In the 2005 Act, the definition of "aggrieved person" clearly postulates about the status of any woman who has been subjected to domestic violence as defined under Section 3 of the said Act. "Economic abuse" as it has been defined in Section 3(iv) of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:23:49 the said Act has a large canvass. Section 12, relevant portion of which has been reproduced hereinbefore, provides for procedure for obtaining orders of reliefs. It has been held in Inderjit Singh Grewal [Inderjit Singh Grewal v. State of Punjab, (2011) 12 SCC 588 : (2012) 2 SCC (Civ) 742 : (2012) 2 SCC (Cri) 614] that Section 468 of the Code of Criminal Procedure applies to the said case under the 2005 Act as envisaged under Sections 28 and 32 of the said Act read with Rule 15(6) of the Protection of Women from Domestic Violence Rules, 2006. We need not advert to the same as we are of the considered opinion that as long as the status of the aggrieved person remains and stridhan remains in the custody of the husband, the wife can always put forth her claim under Section 12 of the 2005 Act. We are disposed to think so as the status between the parties is not severed because of the decree of dissolution of marriage. The concept of "continuing offence" gets attracted from the date of deprivation of stridhan, for neither the husband nor any other family members can have any right over the stridhan and they remain the custodians. For the purpose of the 2005 Act, she can submit an application to the Protection Officer for one or more of the reliefs under the 2005 Act."

13. Even though there is no separate cause of action paragraph in the domestic violence complaint, a perusal of the complaint shows that the respondent has stated as under:-

"19 That the complainant prays to the Hon'ble Court to give her food, shelter and education for her children by her husband. The children are also in mental torture by the father and society also. It is harassment of the complainant and her children."

14. The respondent also prayed for a residential accommodation in terms of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:23:50 Section 19 of the PWDVA, 2005.

15. The Court at the stage of deciding the limitation only needs to see the averments made in the complaint.

16. Once the complaint states that the respondent on 27.03.2011 went to take her jewellery and also wants a residential accommodation, I am of the view, the same is a continuous cause of action in terms of the judgment of "Krishna Bhattacharjee" (supra).

17. The fact whether the averments are true or false can only be decided once the trial takes place and the parties are permitted to lead evidence.

18. The judgment "Inderjeet Singh Grewal" (supra) is also distinguishable as in that case the husband and wife had obtained a decree of divorce by mutual consent and had appeared before the concerned court for recording their statements. Thereafter, the application was filed under the DV Act, after a period of more than 1 year. This is not the case here.

19. The Ld. ASJ has correctly appreciated the same in para 9 of the judgement which reads as under:-

9. Furthermore, appellant has in his written argument disputed the allegations made in the complaint and has tried to demolish the credibility of evidence given by complainant/respondent herein.

However, such exercise is to be done by the trial court, only after conclusion of the trial and after hearing both the parties. Appellant had moved the application for dismissal of this complaint merely on the grounds of limitation. Though, the ground was not available on the face of complaint on the record. In the complaint, in para no. 15 and 16, complainant did make allegations related to incident of 24.08.2010 and 27.03.2011, thereby illustrating incident of domestic violence. This complaint/application under Section 12 of the Act was filed on 08.04.2011. Therefore, by no stretch of imagination it can be said that This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:23:50 the complaint was not maintainable. Therefore, I find this appeal to be merit-less. Hence, same is dismissed.

20. I find no infirmity with the reasoning of the Ld. Sessions Court and the petition is accordingly dismissed. Interim order stands vacated.

JASMEET SINGH, J FEBRUARY 3, 2025 / (MS) Click here to check corrigendum, if any This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 28/02/2025 at 23:23:50