

NOTICE

In A-482 No.8107 of 2022 [*Ram Lotan Vishwakarma And Others Vs State Of U.P. Thru. Prin. Secy. Home U.P. Civil Secrett. Lko. And Another*], the following questions have been referred to the Larger Bench :

“I. Whether it was open for the learned Single Judge in Devendra Agarwal (supra) to declare the judgment of a Co-ordinate bench as per incurium, rather than refer its correctness to a larger Bench ?;

II. Whether for the purpose of seeking quashing of proceedings filed under Section 12 of the D.V.Act, 2005 at the stage of issuance of notice, remedy is under Section 482 Code of Criminal Procedure, 1973 and/or under Article 226/227 of the Constitution of India?;

III. Whether section 528 BNSS (corresponding section 482 Cr.P.C) can be invoked and/or is maintainable against any and all proceedings under the provisions of Domestic Violence Act, 2005 in view of the decision of the Apex Court in the case of Kamatchi Vs. Laxmi Narayanan reported in 2022 SCC Online SC 446?

IV. Whether judgment rendered in the case of Devendra Agarwal and 3 others Vs. Sate of U.P. and another (Supra), lays down the law correctly on the issue of maintainability of an application/petition under Section 482 Cr.P.C. for quashing of the proceedings under Section 12 of the D.V.Act at the stage of issuance of notice or it is the judgment in Smt. Suman Mishra’s case (supra) lays down the law correctly?

V. Whether a notice issued by the Protection Officer for conducting a preliminary enquiry pursuant to a direction by the Magistrate under Section 12 of the D.V. Act, 2005 is amenable to section 528 BNSS (erstwhile section 482 Cr.P.C) or other proceedings like Article 226 or 227 of the Constitution of India?.

VI. Whether a Co-ordinate Bench of a High Court can frame an issue without considering the factum of another case rendered by another Co-ordinate Bench of this Court and hold a Judgment per incurium of another Co-ordinate Bench of equal strength, without first expressing its own view and then referring both the earlier Judgment and its own view, to a larger Bench, for reconciliation and restating the law for clarity, consistency and certainty?; and

VII. Whether the principle of stare decisis should be followed by a Co-ordinate Bench of equal strength and is to be respected and binding subject to right of the Bench of such co-equal quorum to take a different view and refer the question to a larger Bench ?.”

The Hon’ble Larger Bench comprising Hon’ble Sangeeta Chandra, J. and Hon’ble Karunesh Singh Pawar, J. is likely to be constituted on 13.08.2025. Learned members of the Bar may appear to assist the Hon’ble Larger Bench after obtaining necessary permission from the Hon’ble Court and may submit their written submissions and compilation of cases before the Hon’ble Court in advance.

**BY ORDER OF HON’BLE THE CHIEF JUSTICE
01.08.2025**