

A.F.R.

Judgment reserved on. 30.07.2026

Judgment delivered on. 11.08.2026

Neutral Citation No. - 2026:AHC:167600

Court No. - 73

Case :- APPLICATION U/S 482 No.14813 of 2008

Applicant(s):- Ram Pratap Singh And Others

Opposite Party(s) :- State of UP and Another

Counsel for Applicant(s) :- Rajiv Lochan Shukla, Yogesh Narayan Shukla

Counsel for Opposite Party(s) :- Govt. Advocate, Indever Pandey, L.K. Pandey

Hon'ble Sandeep Jain, J.

1. The instant application has been filed seeking the following reliefs:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to quash the impugned summoning order dated 3.3.2003 passed by the Court of Additional Chief Judicial Magistrate, Court No.11, Etawah alongwith entire proceeding of the case no.2355 of 2007 (Shakuntala Devi vs. Ram Pratap Singh and others) under Section 494,498A,323,504,506 IPC and ¼ of the Dowry Prohibition Act.”

Facts of the Case

2. The factual matrix, as emerging from the record, is that the complainant/respondent No.2, Smt. Shakuntala Devi, submitted an application before the Station House Officer, Police Station Bakewar, District Etawah on 04.4.1997, alleging that her marriage was solemnized with accused Ram Pratap Singh on 07.12.1991 in

alleged that articles amounting to Rs.70,000/- were given in the marriage.

3. It was further alleged that despite the aforesaid dowry, the accused persons, namely, Ram Pratap Singh (husband), Phoolan Devi @ Bhurani (mother-in-law), Dashrath Singh (father-in-law) and Vimla (sister-in-law), were dissatisfied and persistently subjected the complainant to cruelty by assaulting, abusing and threatening her. They also allegedly attempted to kill her and demanded an additional dowry consisting of a scooter and Rs.5,000/- in cash. As the said demand remained unfulfilled, the complainant was compelled to leave her matrimonial home in order to save her life.

4. The complainant further alleged that on 28.03.1997, she, along with her elder sister, visited her matrimonial home in an attempt to resume cohabitation. However, she was again assaulted and abused by the accused persons. Her elder sister, who intervened to rescue her, was also assaulted and abused. Upon hearing their cries for help, the neighbours gathered at the spot. During the said incident, accused Ram Pratap Singh allegedly disclosed that he had solemnized a second marriage.

5. On the basis of the aforesaid allegations, an FIR being Case Crime No.81 of 1997 was registered on 04.04.1997 at 5:25 p.m. under Sections 494, 498-A, 323, 504 and 506 IPC as well as Sections 3/4 of the Dowry Prohibition Act against the accused persons.

contending that the investigation had not been conducted fairly and impartially. It was specifically asserted that accused Ram Pratap Singh had solemnized a second marriage with one Pinki, daughter of Sriram, resident of Village Uncha, District Auraiya. It was further alleged that the Investigating Officer had acted in collusion with the accused persons and, therefore, the final report No.11/1997 deserved to be rejected and the accused persons were liable to be summoned.

7. The learned Chief Judicial Magistrate, Etawah, vide order dated 06.06.2000, registered the protest petition as a complaint case. Thereafter, the statement of the complainant Shakuntala under Section 200 Cr.P.C. and the statements of the witnesses Saroj and Munni Devi under Section 202 Cr.P.C. were recorded.

8. In her statement under Section 200 Cr.P.C., the complainant Shakuntala substantially reiterated the allegations made in the FIR. She deposed that after her marriage, despite substantial dowry having been given, her husband and other family members were dissatisfied and started subjecting her to physical and mental cruelty while demanding an additional dowry of Rs.5,000/- and a scooter. She further stated that whenever her father and brother came to take her to her parental home, she disclosed the continuous acts of harassment and dowry demand, whereupon they attempted to persuade the accused persons to mend their conduct, but all such efforts proved futile.

Her sister was also abused. During the said incident, her husband Ram Pratap Singh allegedly informed them that he had already solemnized a second marriage. Upon making inquiries, she came to know that the said marriage had in fact taken place with Pinki daughter of Shriram resident of village Uncha, District Auraiya. She thereafter approached the police and lodged the FIR. However, according to her, the Investigating Officer neither recorded her statement nor conducted a fair investigation and, in collusion with the accused persons, submitted a false final report.

10. In support of the complaint, the statements of Saroj (elder sister) and Munni Devi (mother) were recorded under Section 202 Cr.P.C.

11. Saroj, the elder sister of the complainant, corroborated the version of the complainant Shakuntala and deposed that the accused persons had been demanding an additional dowry of Rs.5,000/- and a scooter and, upon failure to fulfil the said demand, subjected the complainant to physical assault, abuse and criminal intimidation before ultimately driving her out of the matrimonial home. She further deposed that on 28.03.1997 she accompanied the complainant to her matrimonial home, where both of them were assaulted and forcibly turned out of the house. At that time, accused Ram Pratap Singh disclosed that he had already solemnized a second marriage with one Pinki. She also stated that the accused persons had extended threats of dire consequences to them.

and her elder daughter Saroj visited the matrimonial home of the complainant, they were assaulted and abused by the accused persons. She further deposed that accused Ram Pratap Singh had solemnized a second marriage with Pinki daughter of Shriram resident of village Uncha, district Auraiya and two daughters had been born from the said wedlock. According to her, the complainant continued to reside with her parental family along with the daughter born from her marriage with accused Ram Pratap Singh. She categorically stated that the marriage between the complainant and accused Ram Pratap Singh had never been dissolved and, therefore, the subsequent marriage allegedly performed by Ram Pratap Singh with Pinki was void and illegal. She also alleged that the remaining accused persons actively facilitated and participated in the solemnization of the second marriage and thereby conspired against the complainant.

13. Upon considering the statements of the complainant recorded under Section 200 Cr.P.C. and those of the witnesses recorded under Section 202 Cr.P.C., the learned Additional Chief Judicial Magistrate, Court No.2, Etawah, vide order dated 03.03.2003, found sufficient grounds to proceed against the accused persons and accordingly summoned them for offences punishable under Sections 494, 498-A, 323, 504 and 506 IPC as well as Sections 3/4 of the Dowry Prohibition Act. Aggrieved thereby, the present application has been preferred challenging the aforesaid summoning order.

learned Magistrate has committed manifest illegality in summoning the applicants for the aforesaid offences.

15. It is further submitted that there is absolutely no legally admissible evidence to establish that accused Ram Pratap Singh had solemnized a second marriage with one Pinki. The learned Magistrate, according to the applicants, has proceeded merely on conjectures and surmises while summoning the accused for the offence punishable under Section 494 IPC.

16. Elaborating the aforesaid submission, learned counsel contends that to constitute an offence under Section 494 IPC, there must be prima facie material demonstrating that the alleged second marriage was solemnized by performance of the essential ceremonies required under the personal law applicable to the parties. Mere allegations or hearsay statements regarding a second marriage, without proof of the performance of essential marriage ceremonies, are insufficient even for summoning an accused for the offence of bigamy. Since no such material exists on record, the impugned summoning order is stated to be wholly unsustainable in law.

17. Accordingly, it is submitted that the impugned summoning order dated 03.03.2003 suffers from manifest illegality, non-application of mind and perversity, and is liable to be set aside.

19. It is submitted that at the stage of summoning, the Court is only required to examine whether a prima facie case is made out from the material placed before it and is not expected to meticulously evaluate the evidence or determine the likelihood of conviction.

20. Learned AGA further submits that the complainant as well as the witnesses examined under Sections 200 and 202 Cr.P.C. have consistently stated that the complainant was subjected to cruelty, physical assault and harassment on account of unlawful demands of additional dowry and was ultimately expelled from her matrimonial home.

21. It is further contended that the statements recorded during the inquiry also disclose that accused Ram Pratap Singh had solemnized a second marriage with one Pinki during the subsistence of his marriage with the complainant and that the remaining accused persons actively assisted and facilitated the said marriage. Thus, sufficient prima facie material exists to proceed against all the accused persons for the offences alleged.

22. On the aforesaid grounds, learned AGA submits that the present application is devoid of merit and is liable to be dismissed.

23. Service on complainant/respondent No. 2 is sufficient but none is present on her behalf. No counter affidavit has also been filed on her behalf.

25. The Apex Court in the case of *S.Nitheen and Others vs. State of Kerala and Others (2024) 8 SCC 706*, held as under:-

“16. It is a peculiar case wherein, the complainant has not sought prosecution of the appellants for the charge of abetting the second marriage by Ms Lumina (A-1) under Section 109IPC. The appellants herein are being roped in by virtue of Section 34IPC with the allegation that they had the common intention to commit the offence under Section 494IPC. In order to bring home the said charge, the complainant would be required to prima facie prove not only the presence of the accused persons, but the overt act or omission of the accused persons in the second marriage ceremony and also establish that such accused were aware about the subsisting marriage of Ms Lumina (A-1) with the complainant.

17. A perusal of the pre-charge evidence led in support of the complaint would reveal that Flory Lopez (A-3) and Vimal Jacob (A-4) were not even alleged to be present at the time of such marriage. Hence, the involvement of these accused for the charge of having a common intention to commit the offence under Section 494IPC is not established by an iota of evidence.

18. So far as S. Nitheen (A-5), P.R. Sreejith (A-6) and H. Gireesh (A-7) are concerned, they are alleged to be the friends of Ms Lumina (A-1) and Saneesh (A-2) and that they witnessed the alleged bigamous marriage. On perusal of the evidence of the complainant who testified as CW-1, it becomes clear that all he has alleged in his deposition is that accused S. Nitheen (A-5), P.R. Sreejith (A-6) and H. Gireesh (A-7) were the witnesses to the second marriage. However, there is not even a shred of allegation by the complainant that these accused, acted as witnesses to the second marriage having knowledge that Ms Lumina (A-1) was already married to the complainant. In absence of such allegation, the prosecution of S. Nitheen (A-5), P.R. Sreejith (A-6) and H. Gireesh (A-7), for the charge of having a common intention to commit the offence under Section 494IPC is totally unwarranted in the eye of the law.

19. This Court in *Chand Dhawan v. Jawahar Lal* [*Chand Dhawan v. Jawahar Lal*

had by their presence or otherwise facilitated the solemnisation of a second marriage with the knowledge that the earlier marriage was subsisting. The explanation of the first respondent that the second respondent has been functioning as a governess to look after his children in the absence of the mother who had left them implies that Respondents 1 and 2 are living together. In this background, the allegations made against Respondents 3 to 7 imputing them with guilty knowledge unsupported by other material would not justify the continuance of the proceedings against those respondents.”

(emphasis supplied)

26. The Apex Court in the case of ***Sivaraman Nair and Others vs. State of Kerala and Another*** 2026 SCC OnLine SC 672, while delineating the essential ingredients required to attract criminal liability under Sections 498A and 494 of the IPC against the family members of the accused spouse, held that, to constitute an offence under Section 498A IPC, there must be specific allegations disclosing acts of cruelty, such as a distinct demand for dowry, threats, or physical assault. Mere presence in the matrimonial home or a general omnibus allegation, without attribution of any specific overt act, is insufficient to attract the said provision. Likewise, for an offence under Section 494 IPC, the Court held that criminal liability can arise only upon proof of an overt act or omission constituting participation, encouraging or facilitating in the alleged bigamous marriage; mere knowledge of such marriage, in the absence of active involvement, would not attract the offence. The relevant paragraphs are reproduced below:

“22. We have heard Learned counsel for the parties and have carefully perused

criminal proceedings against the accused-appellants would amount to an abuse of the process of law within the meaning of Section 482 of the CrPC.

*23. At the outset, it is to be noted that the gravamen of the complaint lies against the accused-husband. Specific allegations regarding physical assault, demand of dowry and mental torture have been made against him pertaining to specific dates and incidents. The allegations against the accused-appellants however are less of that of active involvement and are mostly that of them being present or encouraging the harassment meted out by the accused-husband. This Court in *Dara Lakshmi Narayana v. State of Telangana* (2025) 3 SCC 735 has laid a word of caution in a similar case involving quashing of proceedings against members of the husband's family, by noting that:*

“27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. ...”

24. In the present case, accused-appellant no. 1, the father-in-law, and accused-appellant no. 2, the mother-in-law, are alleged to have been present during certain incidents of harassment and to have received amounts paid by the complainant's brother. However, the FIR does not attribute to them any specific act of demand, threat, or physical assault on any identifiable occasion.

25. Accused-appellant no. 3, the sister-in-law, is alleged to have received money for the purchase of a flat from the proceeds of the sale of gold, but no specific act of cruelty or coercion on her part has been alleged. No other allegations have been made against her except for the receipt of such money. In all three

failed to provide any cogent evidence to establish such overt act or intention on part of the accused-appellants.

27. The High Court relied upon the statement of a witness to infer knowledge on the part of the accused-appellants. However, such inferential knowledge, without more, is insufficient to satisfy the threshold established in S. Nitheen (supra), which requires evidence of an overt act or omission. While it has been alleged that the accused-appellants were aware of the second marriage, mere knowledge that an act is being or has been committed by another person does not, by itself, establish the requisite common intention. Even proceeding on the basis that the accused-appellants were aware of the second marriage, there is no allegation, let alone any material, to suggest that they actively participated in, facilitated, or encouraged the solemnisation of that marriage.”

(emphasis supplied)

27. From the above law laid down by the Apex Court it is apparent that a mere reference to the names of family members in a criminal case arising out of matrimonial dispute, without specific allegations indicating their active involvement should not be entertained. It was further apparent that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. It was held that courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members.

28. It is further apparent that the complainant is required to

persons actively participated in, facilitated, or encouraged the solemnisation of that marriage.

29. This Court has to examine on the above legal parameters, whether there was sufficient prima facie evidence available before the trial court to summon the accused/applicant's under Section 494, 498 – A, 323, 504, 506 IPC and 3/4 of the Dowry Prohibition Act ?

30. It is evident from the statement of complainant Shakuntala, her elder sister Saroj and mother Munni Devi that the marriage of the complainant was solemnised with accused Ram Pratap Singh in which sufficient dowry was given but the accused persons being the husband, father-in-law, mother-in-law and sister-in-law(Jethani) were not satisfied with it and they demanded ₹ 5,000/- and a scooter in additional dowry, which the complainant and her parents were unable to fulfil, due to which the complainant was subjected to continuous mental and physical harassment in her matrimonial home, which began soon after her marriage. It is further evident that the father and brother of the complainant also tried to persuade the accused persons not to make such demand of dowry and not to commit such acts of harassment and cruelty on the complainant, but the accused persons remained unrelenting.

31. It is further evident that when the complainant failed to fulfil the dowry demand, then such illegal demands of dowry and acts of harassment and cruelty continued and the complainant was ultimately

complainant, where both of them were abused and assaulted by the accused persons and due to the timely intervention of the neighbours, they could escape from the clutches of the accused. It is further evident that after the filing of complaint, the complainant was threatened with dire consequences.

33. It is further evident that during the above incident that took place on 28.3.1997, the complainant and her elder sister Saroj were told by the accused Ram Pratap Singh that he has already solemnised 2nd marriage with Pinki daughter of Shriram resident of village Uncha District Auraiya.

34. It is further evident that in the statement of the complainant Shakuntala and her sister Saroj, there is no whisper regarding the role played by the relatives of Ram Pratap Singh(husband) in solemnising his 2nd marriage with Pinki. But, the mother of the complainant, Munni Devi, in her statement deposed that out of the wedlock of Ram Pratap Singh and Pinki, 2 daughters have been born; the marriage of Ram Pratap Singh and Shakuntala has not been dissolved by decree of divorce; without divorcing Shakuntala, Ram Pratap Singh has solemnised illegal marriage with Pinki. It was further alleged that Dashrath Singh(father-in-law),Phoolan Devi(mother-in-law) and Vimla Devi(Jethani) assisted and conspired in the 2nd marriage.

35. It is apparent that there is a generalised statement of the mother of the complainant Munni Devi, that the relatives of Ram Pratap

apparent that no overt act or omission on the part of the relatives of the husband, in solemnising the 2nd marriage, have been alleged by the above witnesses, in their statement before the trial court. In view of the above facts, the trial court has certainly erred in summoning the relatives of the husband namely Dashrath Singh(father-in-law),Phoolan Devi(mother-in-law) and Vimla Devi(Jethani) for the offence of bigamy punishable under Section 494 IPC.

36. It is further apparent that there is sufficient prima facie evidence available on record to sustain the summoning of the accused persons for the offence under Section 498 – A, 323, 504, 506 IPC and 3/4 of the Dowry Prohibition Act.

37. In view of the aforesaid analysis, the order summoning the accused Dashrath Singh(father-in-law),Phoolan Devi(mother-in-law) and Vimla Devi(Jethani) for the offence of bigamy under Section 494 IPC is unsustainable and liable to be quashed.

38. Accordingly, the instant criminal miscellaneous application is ***partly allowed***. The impugned summoning order dated 3.3.2003 whereby the accused/applicants Phoolan Devi @ Bhurani (mother-in-law) and Vimla (Jethani) have been summoned to face trial under Section 494 IPC is hereby quashed.

39. There is no illegality in the impugned order whereby the accused/applicants have been summoned to face trial under Section 498 – A,

40. Interim order dated 2.7.2008, stands vacated. The trial court is directed to expedite the trial and conclude it preferably within a period of one year from the date a certified copy of this order is produced before it, without giving unnecessary adjournments to the parties, on merits, in accordance with law.

Order Date:- 11.08.2026

Jitendra/Himanshu/Mayank

(Sandeep Jain, J.)