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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1089/2025 & CRL.M.As. 5012/2025, 5013/2025**

GARGI BAJAJ & ANR.

.....Petitioners

Through: Mr. Giriraj Subramaniam, Mr. Joy Banerjee, Mr. Ravi Pathak and Ms. Reaa Mehth, Advocates.

versus

POOJA SHARMA BAJAJ

.....Respondent

Through: Mr. Ramakant Sharma, Mr. Ravi Avasthi and Mr. Prateek Avasthi, Advocates with Respondent (in-Person).

+ **CRL.M.C. 1090/2025 & CRL.M.As. 5014/2025, 5015/2025**

ABHEEPSA GUPTA

.....Petitioner

Through: Mr. Giriraj Subramaniam, Mr. Joy Banerjee, Mr. Ravi Pathak and Ms. Reaa Mehth, Advocates.

versus

POOJA SHARMA BAJAJ

.....Respondent

Through: Mr. Ramakant Sharma, Mr. Ravi Avasthi and Mr. Prateek Avasthi, Advocates with Respondent (in-Person).
SI Shalu, P.S. Kalyanpuri.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
17.02.2025

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1. The present petitions have been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita¹ read with Article 227 of the Constitution of India, 1950, seeking permission for the Petitioners to attend the proceedings in Complaint Case No. 3286/2017 titled ***“Pooja Sharma Bajaj Vs. Kunal Bajaj And Ors”*** pending before the Court of JMFC-03, South District Saket Courts,² *via* video conferencing.
2. The aforementioned complaint case has been filed by the Respondent alleging that her husband, Mr. Kunal Bajaj, has committed the offence of bigamy under Section 494 of the Indian Penal Code, 1860.³ Further, allegations have also been made against the parents of Kunal Bajaj (Petitioners in CRL.M.C. 1089/2025) as well as Ms. Abheepsa Gupta, the alleged second wife of Kunal Bajaj (Petitioner in CRL.M.C. 1090/2025) for the commission of offence under Section 109 of IPC.
3. Considering the above, the Petitioners were summoned by the Trial Court for offences under Section 109 read with Section 494 IPC by order dated 30th August, 2017. The said order was set aside in revision by the Additional Sessions Judge *vide* order dated 21st January, 2019. However the order of the revisional court was subsequently set aside by this Court through order dated 3rd January, 2024, upholding the summoning order dated 31st August, 2017.
4. The aforementioned decision of this Court was assailed by both Kunal Bajaj as well as the Petitioners in the above captioned petitions before the Supreme Court, which was decided by order dated 2nd September, 2024, to the following effect:

¹ “BNSS”

² “Trial Court”



“Heard learned counsel for the parties.

The petitioner is an accused in a case for the offences punishable under Sections 494 & 406 of the Indian Penal Code and the wife-respondent herein, has filed a case of bigamy against the petitioner and the petitioner has admitted that he has been in a relationship with the second wife and also has a child from the second wife. The trial related to the offence of bigamy against the petitioner is presently going on. Meanwhile, the first wife has filed a complaint in which the petitioner who is the husband has challenged the summoning order. The summoning order was set aside by the Sessions Court vide order dated 21.01.2019 and subsequently was quashed on the ground that there is no evidence documentary or oral led by the wife-respondent regarding performance of ceremonies like ‘saptapadi’ around the sacred fire, which is essential and mandatory as per the requirement of Section 7 of the Hindu Marriage Act for performance of a Hindu Marriage.

The petitioner has denied that there were any ‘saptapadi’ or marriage with the other woman. All the same, when the matter was taken up in a petition under Section 482 of the Code of Criminal Procedure by the respondent wife, the same was allowed and it was by the High Court that whether ‘saptapadi’ was performed between the two parties is a matter to be decided during the trial and it is not a matter which should have been gone into at the stage of summoning.

We are in agreement with this finding of the High Court and we are of the opinion that quashing of the summoning order itself was not justified. All the arguments regarding ‘saptapadi’ or any other argument will be available to the petitioner before competent Court i.e. Trial Court, which shall be placed in accordance with law. Presently we see no reason to interfere with the matter and the same is, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of.

SLP(Crl) No. 3061/2024

Heard learned counsel for the parties

Considering the nature of the case of the petitioners who are father in law, mother in law and the alleged second wife (respondent nos.1 to 3) have also been made accused in this case, they would always be at liberty to move an application for their deletion from the array of the parties and in any case for their exemption of presence which shall be looked into in accordance with law.



With these observations, the present petition is dismissed.

Pending application(s), if any, shall stand disposed of.”

[Emphasis Supplied]

5. A perusal of the aforesaid order reveals that the present set of Petitioners were given liberty by the Supreme Court to apply for deletion from the array of parties before the Trial Court, and also seek their exemption, in accordance with law.

6. In the above background, the limited grievance of the Petitioners relates to exemption from personal appearance before the Trial Court. Specifically, the Petitioners in CRL.M.C. 1089/2025, *i.e.*, the parents of Mr. Kunal Bajaj, are both senior citizens residing in the United States of America. They accordingly request that they be permitted to appear before the Trial Court through video conferencing. However, since the alleged offences are bailable, they submit that they shall present the bail bond and provide their surety, who shall appear before the Trial Court. As regards Ms. Abheepsa Gupta, the Petitioner in CRL.M.C. 1090/2025, it is prayed that in light of her professional commitments, she may be also exempted from personal appearance before the Trial Court.

7. In response, counsel for the Respondent points out that the present petitions are being filed just before the scheduled date of hearing and that the Petitioners had previously never raised such a request before the Trial Court. He further submits that the trial is not progressing owing to the Petitioners' failure in appearing in person before the Trial Court. Nonetheless, he states that his primary concern is to ensure that the proceedings before the Trial Court continue without further delay.

8. Considering the aforesaid facts and circumstances, the present



petitions are disposed of with the following directions:

8.1 The Petitioners in CRL.M.C. 1089/2025 shall appear before the Trial Court through video conferencing mechanism. Their bail bonds shall be presented by their counsel along with their surety before the Trial Court. On verification of the identity of the Petitioners and the sureties, the Trial Court may consider accepting the same in accordance with law.

8.2 The Petitioner in CRL.M.C. 1090/2025, Ms. Abheepsa Gupta, is exempted from personal appearance before the Trial Court for tomorrow. However, she shall, thereafter, appear before the Trial Court for the purpose of bail.

8.3 Further requests for exemptions shall be considered by the Trial Court, in accordance with law, having regard to the age of the Petitioners CRL.M.C. 1089/2025 and their current place of residence.

9. Nonetheless, it is clarified that all the Petitioners shall continue to appear before the Trial Court *via* video conferencing mechanism, and shall also appear in person should the Trial Court deem it necessary for any further proceedings.

10. With the above directions, the present petitions are disposed of along with pending applications.

SANJEEV NARULA, J

FEBRUARY 17, 2025

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