



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

102

**CRM-M No.46198 of 2016 (O&M)
Date of decision:26.05.2026**

Mangat Ram and another

.....Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Jitender Dhanda, Advocate for the petitioners.

Mr. Ramender Singh Chauhan, AAG, Haryana.

Mr. Ashish Pannu, Advocate for the respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

This is second petition filed by the petitioner under Section 482 Cr.P.C.

2. The extraordinary jurisdiction vested in this Court by virtue of Section 482 Cr.P.C. has been invoked in the present case, for quashing of complaint No.60 dated 07.02.2009, pending in the Court of learned Additional Chief Judicial Magistrate Bhiwani. The above mentioned complaint has been filed by the respondent No.2 for the commission of offence punishable under Section 494 read with Section 120-B IPC.

3. In nut-shell the fact emerging from record are that the above mentioned complaint has been filed by the respondent No.2, against the petitioners, alleging the commission of offence punishable under Section 494 read with Section 120-B IPC. In the above mentioned complaint the Court of



learned Addl. Chief Judicial Magistrate, Bhiwani, hereinafter being referred to as 'trial Court' only, by virtue of order dated 23.08.2013 summoned the petitioners as accused to face the trial. The order dated 23.08.2013, passed by the learned trial Court, was challenged by the petitioners in the Court of Sessions, but the learned Court of Sessions vide order dated 20.12.2013 dismissed the revision petition and upheld the abovesaid order dated 23.08.2013. Aggrieved of the above mentioned orders the petitioners filed a petition, in this Court, i.e. CRM-M-3173-2014, for quashing of above mentioned two orders. However, the same was dismissed as withdrawn on 15.12.2016.

4. In the backdrop of above mentioned facts petition for quashing of complaint has been filed.

5. Heard.

6. At the very outset, the learned counsel for the petitioners has contended that former petition seeking for quashing of complaint was withdrawn by the petitioners, because the respondent No.2 had entered into a compromise with the petitioner No.1 and she assured that she would withdraw the complaint, on withdrawal of petition, filed by the petitioners for quashing of complaint.

7. According to learned counsel for the petitioner No.1 in view of above mentioned understanding between the petitioner No.1 and the respondent No.2, the former petition for quashing of complaint was withdrawn on 15.12.2016, but subsequently, the respondent No.2 backed out of her commitment and continued to pursue the present complaint. As per learned



counsel for the petitioners since no offence against the petitioners is made out and the continuation of complaint amounts to abuse of process of law the second petition for quashing of FIR is maintainable.

8. It has further been contended on behalf of petitioners that the complaint filed by the respondent No.2 is nothing but the misuse of process of law, as the marriage between the petitioner No.1 and the respondent No.2 already stands dissolved by virtue of decree for divorce dated 21.05.2005. According to learned counsel for the petitioner on 04.12.2006 the petitioner No.1 had solemnized marriage with the petitioner No.2 and till the abovesaid date service of summons with regard to appeal preferred by the respondent No.2, against the judgement dated 21.05.2005, was not effected upon the petitioner.

9. It has been further contended by learned counsel for the petitioners that the petitioners solemnized marriage before the knowledge with regard to filing of appeal against the judgment dated 21.05.2005, and therefore, any criminality cannot be attached to the above mentioned act of the petitioners. In addition to above, it has also been contended by learned counsel for the petitioners that in the above mentioned appeal, filed by the respondent No.2, there was no stay order. As per learned counsel for the petitioners, otherwise also the appeal preferred by the respondent No.2, i.e. FAO-M-183-2005 already stands dismissed by virtue of order dated 06.10.2014, and thus the decree with regard to dissolution of marriage of petitioner No.1 dated 21.05.2005 has attained finality. In view of above, the learned counsel for the petitioners has contended that once with effect from 21.05.2005, the



relationship between the petitioner No.1 and the respondent No.2 stands snapped, the question of commission of offence punishable under Section 494 IPC does not arise at all.

10. In addition to above, it has also been contended by learned counsel for the petitioners that the complaint has been filed with *mala fide* intentions just to harass the petitioners, and that the above mentioned motive of the respondent No.2 is reflected from the fact that in the appeal filed by the respondent No.2 a reply was filed by the petitioner No.1 on 03.04.2006 and in the above mentioned reply it was duly mentioned, and thus informed to the respondent No.2, that the petitioner No.1 had solemnized marriage with the respondent No.2. According to learned counsel for the petitioners despite above mentioned knowledge the complaint in question was filed in the year 2009, i.e. on 07.02.2009, and thus there is delay of almost three years in filing the complaint, from the date of knowledge of second marriage of the petitioner No.1. While claiming that complaint has been filed, and being pursued, with *mala fide* intentions, and that there exists no justify ground for maintaining the above mentioned complaint, the quashing of the above mentioned complaint has been sought.

11. The learned counsel for the respondent No.2 has controverted the above mentioned arguments.

12. It has been contended by leaned counsel for the respondent No.2 that for the commission of offence punishable under Section 494 IPC the only fact which needs to be determined is whether the respondent No.2 who was aggrieved of the judgment and decree of divorce dated 21.05.2005, had filed



the appeal within the limitation period or not. According to learned counsel for the respondent No.2 the above mentioned appeal was filed by the respondent No.2 on 01.07.2005, i.e. within the period of limitation, and therefore, during the pendency of above mentioned appeal the petitioner No.1 was not eligible to solemnize second marriage.

13. While claiming that with *mala fide* intentions second marriage has been solemnized by the petitioner No.1, in violation of existing rules, it has been contended that the above mentioned act was done by the respondent No.1 just to defeat the right of respondent No.2. The learned counsel for the respondent No.2 has further contended that there is no illegality or perversity in the impugned order passed by the learned trial Court as well as learned Court of Sessions, in revision petition, and therefore, there is no scope for interfering in the impugned order. In view of above, the learned counsel for the respondent No.2 has sought for dismissal of present petition.

14. The record has been perused carefully.

15. In the present case following are the facts qua which there is no dispute between the parties:-

- (i) that marriage of petitioner No.1 was solemnized with the respondent No.2 on 11.07.1987;
- (ii) that for the dissolution of above mentioned marriage by the decree for divorce, a petition was filed and the same was decreed on 21.05.2005. Thus on 21.05.2005 the marriage of petitioner No.1 and the respondent No.2 stood dissolved;
- (iii) that against the decree for divorce, dated 21.05.2005, the appeal, i.e. FAO-M-183-2005, was filed by the respondent No.2 in this Court;



- (iv) that the above mentioned FAO-M-183-2005 has already been dismissed by virtue of order dated 06.10.2014;
- (v) that after the dismissal of above mentioned appeal it has never been restored thus, the order dated 06.10.2014 has become final;
- (vi) that once the appeal stands dismissed the judgement and decree dated 21.05.2005 has attained finality;
- (vii) that in the appeal, i.e. FAO-M-183-2005 no stay order with regard to second marriage of petitioner No.1 was passed;
- (viii) that the marriage, with the respondent No.2, was solemnized by the petitioner No.1 after the expiry of period of limitation for filing of appeal, i.e. on 04.12.2006 and till the abovesaid date notice of appeal was not served upon the petitioner No.1;
- (ix) that in his reply dated 03.04.2006 the petitioner No.1 had furnished this information that he had solemnized second marriage however, the complaint in question was filed by the respondent No.2 on 07.02.2009.

16. If the above mentioned admitted facts are taken into consideration co-jointly, it transpires that the marriage between the petitioner and the respondent No.1 already stands dissolved and decree for divorce has already attained finality.

17. In addition to above, it is also relevant to note here that on the date when petitioner No.1 solemnized marriage with the petitioner No.2, i.e. on 04.12.2006, although the appeal was filed by the respondent No.2 against the judgment dated 21.05.2005, but neither there was any stay order in appeal against the marriage of petitioner of No.1 nor the factum of filing of appeal



was in the knowledge of petitioner No.1, as the service of summons of appeal upon the respondent No.1 was effected subsequently.

18. In view of above mentioned facts and circumstances, it is apparent that after 21.05.2005 the petitioner No.1 has no relationship of husband with the respondent No.2, and thus there was no embargo upon the petitioner No.1 to solemnize second marriage.

19. In view of above, it is hereby observed that the petitioner No.1 who was legally separated from the respondent No.2 on the date of solemnization of marriage with petitioner No.2, it is hereby observed that the above mentioned act of the petitioner No.1 did not amount to an offence under Section 494 IPC.

20. The another aspect to be taken into consideration is that this is second petition for quashing of complaint. With regard to above, there are two relevant factors:-

- (i) that the first petition was not decided on merit. Rather, it was dismissed as withdrawn and proper explanation has been given by the petitioner No.1 with regard to circumstances in which above said first petition was withdrawn. The explanation being sufficient, in my opinion it deserves to be accepted;
- (ii) that the purpose of Section 482 Cr.P.C. is to prevent the miscarriage of justice. In the present case as already discussed above, on the date when petitioner No.1 solemnized second marriage, he was equipped with with decree of dissolution of first marriage and there was no bar against the second marriage.



Thus, in the name of technicality if the present petition is dismissed and the petitioners are forced to face trial the same is going to be a futile exercise, as ultimately the petitioner cannot be convicted in view of the fact that they had committed no offence on the date of solemnization of second marriage at any point of time.

21. With regard to maintainability of second petition the principles of law propounded by the Hon'ble Supreme Court of India in the case of 'Bhisham Lal Verma Vs. State of Uttar Pradesh and another', 2023(4) RCR (Criminal) 767 is relevant. In the above mentioned case the Hon'ble Supreme Court of India has observed that there cannot be a blanket rule with regard to maintainability of second petition under Section 482 Cr.P.C. According to Hon'ble Supreme Court of India, it would depend upon the facts and circumstances of the individual case. However, as per Hon'ble Supreme Court of India the same plea cannot be taken again and again.

22. In the present case, it is also relevant to mention here that at any given point of time the petitioner was not having two marriages, and therefore, it is hereby observed that any offence under Section 494 IPC is not made out.

23. Taking into consideration the cumulative effect of all the above mentioned factors, it is hereby observed that the filing of complaint by the respondent No.2 against the petitioners for the commission of offence punishable under Section 494 read with Section 120-B IPC is nothing but an abuse of process of law. Thus, it is hereby observed that the complaint No.60 dated 07.02.2009 along with the summoning order dated 23.08.2013, passed



by the learned trial Court, the subsequent order passed by Court of Sessions in revision petition dated 20.12.2013, and all the relevant proceeding deserve to be set aside/quashed.

24. Thus, by accepting the present petition, the complaint No.60 dated 07.02.2009 and all the subsequent proceedings taken up in the complaint including the orders mentioned above, are hereby quashed.

The present petition stands **allowed** accordingly.

Pending miscellaneous application(s), if any, also stands disposed of.

(SURYA PARTAP SINGH)
JUDGE

26.05.2026

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No