

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE UDAY KUMAR

CRR 2190 OF 2017

CRAN 2 OF 2017 (OLD NO. CRAN 5529 OF 2017)

DEEP DEY

-VS-

STATE OF WEST BENGAL & ANR.

For the Petitioner

*: Ms. Rituparna De Ghosh
Mr. Souryadeep Ghosh*

For the State

*: Ms. Anasuya Sinha, Ld. APP
Mr. Dipankar Paramanick*

Hearing concluded on

: 23.02.2026

Judgment on

: 06.03.2026

UDAY KUMAR, J.: –

1. The inherent jurisdiction of this Court, enshrined under Section 482 of the Code of Criminal Procedure, 1973, stands as a formidable sentinel of justice, intended to be invoked as a shield against the perversion of the criminal process. This revisional application brings to the fore a delicate and recurring conflict in our

matrimonial jurisprudence: the distinction between a socially recognized cohabitation and a legally solemnized marriage.

2. The petitioner seeks the extraordinary relief of quashing a criminal proceeding involving grave charges of Bigamy (Section 494 of the Indian Penal Code) and Matrimonial Cruelty (Section 498A of the IPC). The central theme of this controversy is not merely whether the petitioner committed the acts alleged, but whether the law can recognize a "contractual alliance" executed on a non-judicial stamp paper—a practice increasingly prevalent yet legally unrecognized—as the bedrock of a criminal prosecution that carries the potential for incarceration and the permanent stain of a criminal record.

3. The factual matrix revealed in this matter is both intricate and revealing of the legal impasse currently faced by the parties. The de-facto complainant (Opposite Party No. 2) asserts that her relationship with the Petitioner was transformed into a matrimonial bond on June 27, 2011.

4. However, the manner of this transformation is the pivot upon which this entire case turns. In her initial written complaint, which set the criminal law in motion, she explicitly stated that the "marriage" was solemnized solely through the execution of signatures on a non-judicial stamp paper. There was no mention of the sacred fire, the *Saptapadi*, or the exchange of garlands; there was only the cold ink of a secular contract.

5. Following this execution, the parties reportedly cohabited for approximately three years. During this period of domesticity, it is alleged that the petitioner induced the complainant into a belief of marital security—a belief that was shattered on July 26, 2014, when the Petitioner entered into a formal, registered marriage with one Sumita Saha, supported by a valid Marriage Certificate.

6. Aggrieved by this subsequent union, the complainant initiated the present case. It is observed that during the investigation, the prosecution sought to bridge the legal gap by introducing witness statements alleging a "temple marriage"—a version in diametric opposition to the "stamp paper" version recorded in the foundational FIR.

7. Ms. Rituparna De Ghosh, Learned Counsel appearing for the petitioner, contended with considerable force that the very foundation of a prosecution under Section 494 IPC is the subsistence of a legally valid first marriage. She drew the attention of this Court to the de-facto complainant's own statement in the FIR, where she admits the union was a "contractual" one. It is submitted that such an arrangement is a legal nullity under the Hindu Marriage Act, 1955, which mandates the performance of customary rites and ceremonies.

8. Similarly, for Section 498A IPC, Counsel argued that the status of "husband" is a condition precedent which cannot be fastened in the absence of a *de jure* marriage. In the petitioner's

view, since the parties were never legally wed, he cannot be clothed with the status of a "husband" for the purpose of penal liability. In the absence of a valid marriage, he argues, penal liability cannot be fastened upon a relationship that the law refuses to recognize.

9. Conversely, Ms. Anasuya Sinha Learned Additional Public Prosecutor appearing for the State argued that an FIR is not intended to be an encyclopedia of the entire case. She submitted that the omission of specific ceremonies in the initial complaint does not preclude their occurrence. It was her contention that the statements of witnesses recorded during the investigation alleging a temple marriage constitute disputed questions of fact that can only be adjudicated at the trial. To support this, she placed reliance on the ratio in *Reema Aggarwal v. Anupam (2004) 3 SCC 199*, arguing that the term "husband" should be interpreted broadly to prevent offenders from escaping on technicalities.

10. The adjudication of this revisional application does not merely require a mechanical application of statutes; it demands an inquiry into a singular, foundational point of law: Can penal liability be fastened upon a citizen based on a relationship that the law, at its inception, refuses to recognize? In the theatre of criminal justice, this Court cannot remain a mute spectator to a prosecution that seeks to transform a contractual convenience into a sacramental solemnity.

11. Consequently, the primary issues for determination are whether a prosecution for Bigamy under Section 494 IPC can be sustained when the foundational "first marriage" is admitted to be a signature-based union on stamp paper, and whether the protective rigors of Section 498A IPC can be invoked in a relationship where the inception of marital status is legally void *ab initio*.

12. At the very outset, this Court must consider the statutory mandates under Sections 5 and 7 of the Hindu Marriage Act, 1955. While Section 5 lays down the essential conditions for a valid marriage (monogamy, mental capacity, age, and prohibited degrees) Section 7 dictates its very soul: the form of the union. It provides:

"7. Solemnization of a Hindu marriage— (1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto. (2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken."

13. A marriage by signature on an agreement paper is a mode of union unrecognized under this Act. It is a procedure unknown to Hindu Law; consequently, a "contractual marriage" is a legal nullity. It lacks the "legal alchemy" required to transform cohabitation into

matrimony. To hold otherwise would be to grant a piece of stamp paper the sanctity of the *Saptapadi*.

14. The law regarding Section 494 IPC is no longer *res integra*. To appreciate the strict proof of marriage required for a charge of Bigamy, the petitioner referred the landmark decision of the Hon'ble Supreme Court in *Bhaurao Shankar Lokhande v. State of Maharashtra (AIR 1965 SC 1564)*. The Apex Court observed that the word "marries" in Section 494 IPC implies a marriage celebrated with proper ceremonies. Unless the marriage is "solemnized" in the legal sense, it cannot be said to be a marriage for the purposes of the penal section. Since the complainant admitted the union was based on a "stamp paper," the requirement of solemnization is absent, making a charge of bigamy a legal impossibility.

15. Regarding the charge under Section 498A IPC, Learned Counsel for the State relied on *Reema Aggarwal v. Anupam (2004) 3 SCC 199*, which interpreted the term "husband" broadly to prevent offenders from escaping on technicalities. The Apex Court observed:

"The concept of 'husband'... would include a person who enters into a marital relationship with a woman and subjects her to cruelty... even if the marriage is subsequently found to be void." (Para 18)

16. While this Court is mindful of the protective umbrella extended to women in marital-like relationships, such a precedent cannot be stretched to the point of absurdity.

17. There is a vital distinction between a marriage that is *technically void* (where ceremonies were performed but a legal disability, like a subsisting prior marriage, existed) and a union that is *legally non-existent* from the start. The protection in *Reema Aggarwal* applies to the former. It does not apply where the complainant's own version describes a union that lacks any form of legal recognition. A secular contract on stamp paper does not clothe the parties with the status of "spouse" for the purpose of Section 498A.

18. Upon a microscopic evaluation of the material on record, this Court finds that the edifice of the prosecution rests upon a "legal mirage." The shift from a "stamp paper marriage" in the FIR to a "temple marriage" in subsequent witness statements is a transparent, albeit clumsy, attempt to cure a fatal legal infirmity. Such an afterthought fails to inspire confidence.

19. The allegations in the FIR carry the "seed of their own destruction." If the mode of marriage alleged—the signing of a contract—is not recognized in law, the subsequent acts cannot constitute the offences charged. To compel the petitioner to run the gauntlet of a criminal trial based on a relationship that is a legal non-entity would be a manifest failure of justice. The criminal

machinery cannot be utilized to validate a relationship which the personal law of the parties expressly fails to recognize.

20. On the basis of the above discussions, the following law points emerge :

- a) A "contractual marriage" on stamp paper is a legal nullity under Hindu Law.
- b) Strict proof of solemnization of the first marriage is mandatory for a prosecution under Section 494 IPC.
- c) The status of "husband" under Section 498A IPC cannot be fastened upon a party where the union is legally non-existent *ab initio*.

21. The inherent power under Section 482 Cr.P.C is designed to nip in the bud a prosecution destined to fail due to a fundamental legal infirmity.

22. Accordingly, it is ordered:

- i. The proceeding in G.R. Case No. 5501 of 2014, arising out of Baruipur P.S. Case No. 1427 dated 27.09.2014, is hereby quashed and set aside.
- ii. The Petitioner, Deep Dey, is discharged and his bail bonds stand cancelled.
- iii. Liberty is reserved for the de-facto complainant to seek legal recourse under other statutory provisions, such as the Protection of Women from Domestic Violence Act, 2005, if she is so advised.

iv. It is clarified that while the relationship may not satisfy the rigors of matrimonial penal statutes, the complainant is not precluded from seeking civil or quasi-criminal remedies available to persons in a "relationship in the nature of marriage."

- 23.** The Criminal Revision 2190 of 2017 is, accordingly, allowed.
- 24.** CRAN 2 of 2017 (Old No. CRAN 5529 of 2017) is also disposed of.
- 25.** There shall be no order as to the cost.
- 26.** All consequential interim order/orders, if any, shall stand vacated.
- 27.** Let a copy of this judgment be sent to the Learned Court below and the concerned Police Station for immediate compliance.
- 28.** The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
- 29.** Case diary, if any, be returned forthwith.
- 30.** Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)