



2026:AHC:115744

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 24532 of 2023

Sarvesh Rai And 2 Others

.....Applicant(s)

Versus

State Of U.P. State Of U.P. And Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Pramod Kumar Dubey
Counsel for Opposite Party(s) : G.A., Hanuman Deen Verma

Court No. - 75

HON'BLE SAMIT GOPAL, J.

Order on Delay Condonation Application No.3 of 2026

1. List revised.
2. Heard Sri Chandra Prakash Singh, learned counsel for the applicants, Sri Ram Prakash Shukla, learned counsel for the State and perused the record.
3. Sri Hanuman Deen Verma, learned counsel for the opposite party no. 2 is not present even when the matter has been taken up in the revised list.
4. This application for condonation of delay has been filed by the applicants with the prayer to condone the delay of more than 7 months in filing the present recall application.
5. This Court has perused the application and the affidavit filed in support of it.
6. Cause shown is sufficient. The application for condonation of delay in filing the recall application is allowed.

Order on Criminal Misc. Recall Application No.4 of 2026

7. This recall application has been filed by the applicants with the prayer to recall the order dated 03.07.2025 and to restore the case to its original number.

8. This Court has perused the recall application and the affidavit filed in support of it.

9. Cause shown is sufficient. The recall application is allowed. The matter is restored to its original number.

Order Application U/S 482 No.- 24532 of 2023

10. Learned counsel for the State submits that he does not propose to file any counter affidavit in the matter. Thus the Court proceeds to hear and decide the matter.

11. This matter was referred to the Mediation and Conciliation Centre of this Court vide order dated 12.07.2023. Office through its report dated 21.10.2024 has placed on record a report received from the Mediation and Conciliation Centre of this Court which is dated 21.02.2024, a perusal of which goes to show that the Mediation Centre has reported that mediation has completed but no agreement could not arrived between the parties.

12. Records of the matter do not show filing of any counter affidavit by the opposite party no. 2. Learned counsel for the applicants submits that he has not received any counter affidavit on behalf of the opposite party no.2 till date.

13. This Criminal Misc. Application U/S 482 Cr.P.C. has been filed before this Court by the applicants- Sarvesh Rai (husband), Surendra Rai (father-in-law), Devanti Rai (mother-in-law) with the following prayers:-

"It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to quash/drop the Summoning Order dated 16.05.2023, in Complaint Case No.16718 of 2021 (Anuradha Rai Vs. Sarvesh Rai & others) under Section 498A, 494 I.P.C. and Section 3/4 of D.P.Act, Police Station- Belhar, District-Sant Kabir Nagar pending in the Court of Learned Civil Judge (J.D.) F.T.C.-Second/J.M.. Sant Kabir Nagar.

It is further prayed that till the final disposal of this application before Hon'ble Court further proceedings Complaint Case No.16718 of 2021 (Anuradha Rai Vs. Sarvesh Rai & others) under Section 498A, 494 I.P.C.

and Section 3/4 of D.P.Act, Police Station- Belhar, District-Sant Kabir Nagar pending in the Court of Learned Civil Judge (J.D.) F.T.C.- Second/J.M., Sant Kabir Nagar may kindly be stayed.

And/or pass such other and further order which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case, otherwise the applicants shall suffer irreparable loss and hardship."

14. The facts of the case are that an application dated 16.12.2021 was filed by the opposite party no. 2 against the applicant/Sarvesh Rai (husband), Surendra Rai (father-in-law), Devanti Rai (mother-in-law), Reeshu Singh (wife of Sarvesh Rai), Sandeep Rai(jeth) and Kiran Rai for the offences 498A, 323,406, 504, 506, 109, 494, 120B I.P.C. and 3/4 D.P. Act, alleging therein that she was married with Sarvesh Rai on 28.11.2017. In the marriage her father had given Rs.5 lakh cash and ornaments alongwith household articles. After ten days of marriage her father-in-law Surendra Rai, mother-in-law Devanti Rai, jeth Sandeep Rai raised demand of Swift Dezire Car as dowry. She told about it to her father who then came and consoled the accused and showed his inability to give it by stating that he has other children to marry. As the demand of dowry was not fulfilled her husband Sarvesh Rai, jeth Sandep Rai, father-in-law Surendra Rai, mother-in-law Devanti Rai assaulted her and even did not give her adequate food to eat and abused her and threatened her for life and locked her in a room. She helplessly still lived there. Her husband is a government teacher. In the absence of her husband her jeth Sandeep Rai assaulted her for which she made a complaint to her husband who then assaulted her and stated of levelling false allegations. Due to non fulfillment of their demand of dowry, she was thrown out of the house on 5.11.2019. She came to her maternal house and told her father about it who consoled her and stated of not taking any action. Her father got panchayat many times but the accused were not ready to leave their demand of car and threatened second marriage of her husband. Subsequently her husband married Reeshu Singh on 20.11.2021 and brought her and kept her in the house as his wife despite the fact that marriage was without giving divorce to her which was illegal. The accused merely in the greed of dowry assaulted and thrown her out from the house after snatching her clothes and jewellery.

15. The statements of the complainant/victim was recorded under Section 200 Cr.P.C. and that of her witnesses namely Geeta Pandey her younger sister as P.W.-1 under Section 202 Cr.P.C. and Avinash Rai her brother as P.W.-2 under Section 202 Cr.P.C. were recorded who have supported the version of the complaint. Subsequently summoning order dated 16.5.2023 was passed by the Civil Judge (J.D.)/F.T.C.-II/J.M., Sant Kabir Nagar and accused Sarvesh was summoned for the offence u/s498A, 494 I.P.C. and 3/4 D.P. Act, Surendra and Devanti were summoned for the offence under Sections 498A I.P.C. and 3/4 D.P. Act. The present petition has thus been filed before this Court with the aforesaid prayers.

16. Submission of learned counsel for the applicants is that the applicants have been falsely implicated in the present case. It is submitted that the applicant no. 1 is the husband, the applicant no.2 is the father-in-law and the applicant no.3 mother-in-law. It is submitted that the allegations in the complaint are totally false and concocted. It is submitted that the applicant no. 1 has filed a case under Section 9 of the Hindu Marriage Act for restitution of conjugal rights on 04.07.2022 since he wanted that his wife should return back and live with him happily but the opposite party no. 2 did not agree to come and live with him in her matrimonial house. She demanded to live separately but not with the family members. It is submitted that the allegations regarding the applicant no. 1 solemnizing second marriage during subsistence of first marriage is totally false and concocted. It is submitted that the applicant no. 1 has not married to anyone. While placing para- 19 of the affidavit in support of the application it is submitted that the present case is a case of no injury. It is submitted that the present complaint has been lodged after an unexplained delay of 02 years 01 month and 05 days as the complainant states of thrown out of the house on 05.11.2019 but the complaint has been filed on 16.12.2021. It is submitted that the applicants have no criminal history as stated in para-20 of the affidavit.

17. Per contra, learned counsel the State opposed the submissions of learned counsel for the applicants and the present petition and submitted that the applicants are named in the complaint and in the statements of the victim/complainant and the witnesses recorded during inquiry and there are allegations against them.

18. After having heard learned counsels for the parties and perusing the records, it is evident that the present dispute is matrimonial in nature arising out of matrimonial relationship between the applicant no. 1/Sarvesh Kumar and the opposite party no.2/Anuradha Rai. The applicant no. 2/Surendra Rai and the applicant no. 3/Devanti Rai are father-in-law and mother-in-law respectively of the opposite party no.2. In so far as the complaint is concerned the same was also filed against 02 other family members of the applicant no. 1/husband and Reeshu Singh the alleged second wife of the applicant no.1 but the trial court concerned did not summon them despite the fact that the allegations against Sandeep Rai and Kiran are identical to that of Sarvesh Rai, Surendra Rai and Deventi Rai. The trial court has summoned only the present applicants. The allegations in so far as against the applicants no.2 and 3 are concerned, are general and omnibus. There is delay of 02 years 01 month and 05 days in filing of the complaint which has not been explained.

19. Time & again the Apex Court has held that proceedings in so far as the family members & relatives of husband are concerned, should be scrutinized and if the same are of general & omnibus in nature be quashed. In the case of *Payal Sharma Vs. State of Punjab & Another: Criminal Appeal No. of 2024 (@ SLP (Crl.) No. 13579 of 2023)* decided on 26.11.2024, the Apex Court in paragraph nos. 9, 10 & 11 has held as under:-

"9. In the decision in *Preeti Gupta & Anr. v. State of Jharkhand & Anr.*, this Court observed that it is a matter of common knowledge that in matrimonial disputes exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of sufferings of ignominy, it was further held therein. We have no hesitation to hold that the said observation of this Court is in fact, sounding of a caution, against non-discharge of the duty to see whether implication of a person who is not a close relative of the family of the husband is over implication or whether allegation against any such person is an exaggerated version, in matrimonial disputes of this nature. In this context, it is to be noted that

the term 'relative' has not been defined in the statute and, therefore, it must be assigned a meaning as is commonly understood. Hence, normally, it can be taken to include, father, mother, husband or wife, son, daughter, brother, sister, nephew, niece, grandson or granddaughter of any individual or the spouse of any person. To put it shortly, it includes a person related by blood, marriage or adoption. In paragraph 35 of *Preeti Gupta's case (supra)* it was furthermore held thus:-

"...The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment by husband's close relatives who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection."

10. In such circumstances, normally against a person who is not falling under any of the aforesaid categories when allegations are raised, in the light of the observations made in *Preeti Gupta's case (supra)*, the Court concerned owes an irrecusable duty to see whether such implication is over implication and / or whether the allegations against such a person is an exaggerated version. We have already taken note of the fact that except the observation made in paragraph 7 there is no consideration at all of the contentions of accused No.5 in the impugned order.

11. In the decision in *Geeta Mehrotra and Anr. v. State of U.P. and Anr.*, this Court held that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the tendency of over implication viz., to draw the entire members of the household in the domestic quarrel resulting in matrimonial dispute, especially when it happens soon after the wedding. In the decision in *Kahkashan Kausar @ Sonam and Others v. State of Bihar & Ors.*, this Court quashed proceedings in so far as family members of the husband on the ground that the allegations against them are general and ominous in nature. In matters like the one at hand when relatives not residing in the same house where the alleged victim

resides, the courts shall not stop consideration by merely looking into the question where the accused is a person falling within the ambit of the expression 'relative' for the purpose of Section 498-A, IPC, but should also consider whether it is a case of over implication or exaggerated version solely to implicate such person(s) to pressurise the main accused. It is also relevant to refer to the decision of this Court in State of *Haryana v. Bhajan Lal*, wherein after considering the statutory provisions and the earlier decisions, this Court referred to various categories of cases where the inherent powers under Section 482, Cr.P.C. could be exercised by High Court to prevent abuse of process of Court or otherwise to secure ends of justice. One among such categories is where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent man could ever reach a just conclusion that there is sufficient ground for proceeding against an accused."

20. Further the Apex Court in the cases of *Dara Lakshmi Narayan and others vs. State of Telangana: 2024 SCC OnLine SC 3682*, and *Geddani Jhansi vs. The State of Telangana: 2025 INSC 160* has held that there is exaggerated version of the incident and the same can also be seen from the fact that the entire family has been made an accused for ulterior motives and with malafide intention with general and omnibus allegations.

21. Further the Apex Court in the case of *Charul Shukla vs. State of U.P. and others: 2026 SCC OnLine SC 476* has held that there is a tendency of exaggeration in versions in matrimonial matters and implication of family members of the husband also and also that delay in filing complaint can be fatal in matrimonial disputes.

22. Thus in view of the judgements of the Apex Court, since common, general and omnibus allegations against the applicants no.2- Surendra Rai the father-in-law and the applicant no.3- Devanti Rai the mother-in-law of the opposite party no. 2 who are the family members of the applicant no. 1 Sarvesh Rai the husband of the opposite party no.2, have been levelled, the present petition deserved to be allowed and as such the same is allowed in respect to the applicants no. 2 and 3.

23. The petition in respect to the applicant no. 1 Sarvesh Rai the husband of the opposite party no. 2 **is dismissed.**

24. The impugned summoning order dated 16.5.2023 is hereby quashed in respect of applicant no.2- Surendra Rai the father-in-law and the applicant no.3- Devanti Rai the mother-in-law.

25. The trial court to proceed with the trial of the applicant no.1/Sarvesh Rai without granting undue adjournment to either of the parties.

26. Interim order, if any, stands vacated.

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

28. Registrar (Compliance) to communicate this order to the concerned trial court for information and necessary compliance within ten days.

May 19, 2026
Naresh

(Samit Gopal,J.)