



NC: 2026:KHC:13088
CRL.P No. 470 of 2019
C/W CRL.P No. 7922 of 2018
CRL.P No. 6031 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

CRIMINAL PETITION NO.470 OF 2019

C/W

CRIMINAL PETITION NO. 7922 OF 2018

CRIMINAL PETITION NO. 6031 OF 2022

IN CRL.P NO.470/2019

BETWEEN:



...PETITIONER

(BY SRI C. R. GOPALASWAMY, SENIOR COUNSEL FOR
SRI BHARGAV G., ADVOCATE)

AND:



...RESPONDENT

(BY SRI K. SHRIHARI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 CR.P.C PRAYING TO QUASH THE PRIVATE COMPLAINT IN P.C.R.NO.36051/2017 FOR THE OFFENCE PUNISHABLE UNDER SECTION 494 READ WITH SECTION 34 OF IPC PENDING ON THE FILE OF 1ST ADDITIONAL IST CIVIL JUDGE AND J.M.F.C. MYSURU, VIDE ANNEXURE-A AND ETC.

IN CRL.P NO.7922/2018

BETWEEN:

1.

2.

...PETITIONERS

(BY SRI C. R. GOPALASWAMY, SENIOR COUNSEL FOR
SRI BHARGAV G., ADVOCATE)

AND:



NC: 2026:KHC:13088
CRL.P No. 470 of 2019
C/W CRL.P No. 7922 of 2018
CRL.P No. 6031 of 2022

AGED ABOUT 66 YEARS

...RESPONDENT

(BY SRI K. SHRIHARI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 CR.P.C PRAYING TO QUASH THE PRIVATE COMPLAINT IN P.C.R.NO.36051/2017 FOR THE OFFENCE PUNISHABLE UNDER SECTION 494 READ WITH SECTION 34 OF IPC PENDING ON THE FILE OF THE I ADDITIONAL I CIVIL JUDGE AND J.M.F.C., MYSURU VIDE ANNEXURE-A AND ETC.

IN CRL.P NO.6031/2022

BETWEEN:

...PETITIONER

(BY SRI C. R. GOPALASWAMY, SENIOR COUNSEL FOR
SRI BHARGAV G., ADVOCATE)

AND:

...RESPONDENT

(BY SRI K. SHRIHARI, ADVOCATE)



NC: 2026:KHC:13088
CRL.P No. 470 of 2019
C/W CRL.P No. 7922 of 2018
CRL.P No. 6031 of 2022

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 CR.P.C PRAYING TO QUASH THE ORDER DATED 01.10.2018 TAKING COGNIZANCE AGAINST THE PETITIONER FOR THE OFFENCE PUNISHABLE UNDER SECTION 494 OF IPC READ WITH SECTION 34 OF IPC AND ISSUING PROCESS IN C.C.NO.3630/2018 (ARISING OUT OF PCR NO.3605/2017) PENDING ON THE FILE OF THE I ADDITIONAL I CIVIL JUDGE AND J.M.F.C. MYSURU.

THESE PETITIONS, COMING ON FOR HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

Crl.P.No.470/2019 is filed by the accused No.4, while Crl.P.No.7922/2018 is filed by the accused Nos.2 and 3 and Crl.P.No.6031/2022 is filed by the accused No.1 challenging the order dated 01.10.2018 passed by the I Additional Civil Judge and JMFC, Mysuru (henceforth referred to as 'Trial Court') in C.C.No.3630/2018 by which, cognizance was taken for an offence punishable under Section 494 read with Section 34 of IPC.

2. (i) The respondent/complainant is the wife of the accused No.1. She filed a private complaint in PCR No.36051/2017 contending that the accused No.1 was her



husband and that accused No.1 had multiple illicit relationships. She claimed that the accused No.1 had married the accused No.4 and that the accused Nos.2 and 3 being the children of the complainant and accused No.1 were silent spectators to the illicit relationship of accused No.1 with accused No.4. She therefore, alleged that accused Nos.1 and 4 were in a bigamous relationship and that accused Nos.2 and 3 were supporting them and therefore, requested the Court to take cognizance of an offence punishable under Section 494 read with Section 34 of IPC.

(ii) The Trial Court recorded the sworn statement of the complainant and thereafter, took cognizance for an offence punishable under Section 494 read with Section 34 of IPC and issued process to the accused/petitioners.

(iii) The petitioners aggrieved by the said order, are before this Court.

3. The learned Senior counsel for the petitioners submitted that accused Nos.2 and 3 are the children of the complainant and accused No.1 and they have been arraigned as accused on the ground that they were silent spectators to



the bigamous marriage of accused No.1 with accused No.4. He contends that for an offence under Section 494 of IPC, it is only the erring spouse who can be prosecuted and not the near relatives of the accused No.1. He also contends that accused No.4 also cannot be prosecuted for an offence under Section 494 of IPC. In so far as accused No.1 is concerned, he contends that the complainant did not disclose as to when the accused No.1 had married the accused No.4. On the contrary, he contends that the complainant had mentioned in the private complaint that accused No.1 and accused No.4 were living in an illegal relationship. He therefore, contends that as long as the complainant does not prove the marriage of accused No.1 with accused No.4, an offence under Section 494 of IPC is not made out. He submits that no evidence was placed in the sworn statement to establish that accused No.1 had married the accused No.4. He thus, contends that the order of the Trial Court taking cognizance for the offence punishable under Section 494 read with Section 34 of IPC is liable to be set aside.

4. The learned counsel for the respondent on the other hand contended that the accused Nos.2 and 3 are the children



of the complainant and accused No.1 and that they have silently supported accused No.1 in leading a bigamous life with accused No.4. He therefore, submits that accused Nos.2 and 3 are equally liable as they have abetted the commission of the offence. As regards, accused No.4, he contends that it was she who marred the family life of the complainant and accused No.1 and therefore, she also is liable to be roped in under Section 109 of IPC. He contends that accused No.1 and accused No.4 had printed their names as the parents of accused Nos.2 and 3 at the time of their marriage and therefore, the marriage of accused No.1 with accused No.4 is proved beyond doubt.

5. I have considered the submissions made by the learned Senior counsel for the petitioners and the learned counsel for the respondent.

6. An offence under Section 494 of IPC is committed when a person marries another during the lifetime of his/her spouse and he/she shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.



7. For the sake of convenience, Section 494 of IPC is extracted below:-

"494. Marrying again during lifetime of husband or wife.— Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge."

8. A perusal of the above would go to show that it is the erring spouse who alone would be liable to be prosecuted



and not anyone else, even if such person has supported the accused in any manner whatsoever. For an offence under Section 494 of IPC, the provisions of Section 109 of IPC cannot be invoked as Section 494 of IPC only contemplates punishing the erring spouse and no one else. In this regard, it is profitable to refer to the judgment of the Hon'ble Apex Court in the case of ***S. Nitheen and others vs. State of Kerala and another [(2024) 8 SCC 706]***, where the Hon'ble Apex Court in similar circumstances held as under:-

"15. A bare perusal of the penal provision would indicate that the order framing charge is erroneous on the face of the record because no person other than the spouse to the second marriage could have been charged for the offence punishable under Section 494 IPC simplicitor. However, this is a curable defect, and the charge can be altered at any stage as per the provisions of Section 216 CrPC.

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 109 IPC. The appellants herein are being roped in by virtue of Section 34 IPC with the allegation that they had the common intention to commit the offence under Section 494 IPC. 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."

9. This is also the well settled position of law, which can be gathered from the judgment of the Hon'ble Apex Court in the case of **Chand Dhawan vs. Jawahar Lal and others [(1992) 3 SCC 317]**, where it was held that the provisions of Section 109 of IPC cannot be invoked in an offence punishable under Section 494 of IPC.

10. Consequently, the trial Court without going into the contours of Section 494 of IPC, erroneously took cognizance of the offence against accused Nos.2, 3 and 4.

11. As regards accused No.1, a perusal of the private complaint does not show that there was any allegation that accused No.1 had married the accused No.4. The complainant did not even disclose as to when they were married and where they lived as husband and wife. All that she has mentioned in the private complaint is that accused No.1 and accused No.4 are living in an illegal relationship. It is now well settled that an



NC: 2026:KHC:13088
CRL.P No. 470 of 2019
C/W CRL.P No. 7922 of 2018
CRL.P No. 6031 of 2022

offence under 494 of IPC would be attracted only when a person takes another in marriage during the lifetime of his/her spouse. Thus, it was incumbent upon the complainant to plead and prove that accused No.1 had married accused No.4. Mere living in a relationship, does not amount to a marriage and therefore, an offence under Section 494 of IPC was not made out by the complainant. The Trial Court without considering the case from this stand point, has erroneously proceeded on an assumption that accused No.1 and the other accused are complicit in an offence punishable under Section 494 of IPC.

12. In that view of the matter, the following order is passed:-

ORDER

- (i) These petitions are ***allowed***.
- (ii) The order dated 01.10.2018 passed by the I Additional Civil Judge and JMFC, Mysuru, in C.C.No.3630/2018 taking cognizance against the petitioners/accused Nos.1 to 4 for an offence punishable under Section 494 read with Section



NC: 2026:KHC:13088
CRL.P No. 470 of 2019
C/W CRL.P No. 7922 of 2018
CRL.P No. 6031 of 2022

34 of IPC, is quashed. Consequently, criminal proceedings against the petitioners/accused Nos.1 to 4 in C.C.No.3630/2018 on the file of the I Additional Civil Judge and JMFC, Mysuru, is quashed.

Sd/-
(R. NATARAJ)
JUDGE

PMR
List No.: 1 SI No.: 45