



2026:AHC-LKO:24564

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 2132 of 2017

Raghvendra Narain Khanna And Ors.

.....Applicant(s)

Versus

State Of U.P. And Anr.

.....Opposite
Party(s)

Counsel for Applicant(s) : Mr. Sidharth Dhaon, Abhishek Dhaon,
Sankalp Mehrotra
Counsel for Opposite Party(s) : Govt. Advocate, Vaibhav Kalia

Court No. - 15

HON'BLE BRIJ RAJ SINGH, J.

1. The present application has been filed seeking setting aside the order dated 08.03.2017 passed by the Additional District Judge, Court No.4, Bahraich in Criminal Revision No.319 of 2015 and the order dated 14.08.2015 passed by the Chief Judicial Magistrate, Bahraich in Complaint Case No.2032 of 2015, Puneet Vs. Amit Khanna and others, under Sections 498-A, 323, 504 and 506 IPC and Section 3/4 Dowry Prohibition Act, Police Station Kotwali Nagar, District Bahraich.

2. It is the case of the applicants that opposite party no.2 filed Complaint Case No.2032 of 2015 before the Chief Judicial Magistrate, Bahraich on 28.07.2015, under section 498A, 323, 504, 506 IPC and Section 3/4 of the Dowry Prohibition Act, on which the Chief Judicial Magistrate, Bahraich passed an order dated 14.08.2015 thereby summoning the applicants. Feeling aggrieved with the aforesaid order, the applicants preferred a criminal revision before the revisional court, which was registered as Criminal Revision No.319 of 2015 and the said revision has been dismissed order dated 08.03.2017.

3. It is said that applicants are innocent and they have been falsely been implicated in the aforesaid case. applicant no.3 and sister of opposite party no.2 got married on 09.03.2002 at New Delhi and thereafter they never resided at Bahraich with applicants no.1 and 2, therefore, there is no question of any alleged demand of dowry and physical assault on the part of applicants no.1 and 2. There is an inordinate, unreasonable and

unexplained delay of more than two years in filing the complaint as the incident took place on 05.06.2013, whereas the complaint has been filed on 28.07.2015. However, the trial court has not recorded any finding on the inordinate delay of about more than two years in filing the complaint through it was categorically pleaded in the application for recall of the order dated 20.02.2016 by the applicants. It is alleged that after the alleged incident, neither any FIR was ever lodged by opposite party no.2 or by his sister nor any medical examination of the sister of opposite party no.2 was conducted, which gives rise to the credibility and genuineness of the alleged incident. Apart from it, on the alleged date of incident, applicant no.1 was in U.S.A. and applicant no.2 was in Delhi and was undergoing treatment of her knee pain under the Doctor, namely, Mr. Gaurav Jindal of Pushpanjali Crosslay Hospital.

4. It is said that applicant no.3 along with the sister of opposite party no.2, namely, Mrs. Shilpa Khanna along with both the daughters were on trip to Nainital, which is evident from the photographs as well as the visitor register of the hotel along with the certificate of visit obtained by applicant no.3 from Elphistone Hotel, Nanital. As per the admission made in the aforesaid case, two out of three accused persons i.e. applicants no.1 and 2 were not present at the time of incident, which falsifies the story of the complaint. Moreover, the present complaint has been filed as a tool to multiply the proceedings in as much as the sister of opposite party no.2 had at an earlier point of time i.e. on 07.07.2015 instituted a case under the Domestic Violence Act at Gurgaon and thereafter opposite party no.2 instituted the complaint case at Bahraich, which is an afterthought with contradictory version of facts and circumstances.

5. Apart from the above, sister of the opposite party no.2 has instituted a case under the provisions Section 125 Cr.P.C. at Lucknow, which was registered as Misc. Case No.50 of 2016 in order to harass applicant no.3 by stating her place of residence at Lucknow, whereas she along with her daughters are permanently residing at the co-owned house of applicant no.3 at Gurgaon and also concealed the fact that a case under the provisions of the Domestic Violence Act has already been filed by her before the Additional Chief Judicial Magistrate, Gurgaon. Furthermore, sister of opposite party no.2 has filed an affidavit dated 20.07.2016 before

the Additional Chief Judicial Magistrate, Gurgaon that due to inadvertence and on advise given by her counsel, she had filed the aforesaid criminal case against applicant no.3 at Lucknow and as a matter of fact, she never resided at Lucknow and had come for winter vacations along with the daughters, which is evident from the affidavit dated 20.07.2016 filed before the Additional Chief Judicial Magistrate, Gurgaon.

6. Counsel for the applicants submits that there is no medical report available on record and to the best of the knowledge of the applicants, no medical examination of sister of opposite party no.2 was conducted. He further submits that divorce suit was filed by the husband i.e. applicant no.3, which was registered As Computer IS No.HMA/228/2016, CNR No.HRGR01-003257-2016 and the same has been decreed in his favour vide detailed judgement and order dated 25.02.2021 by the Additional Principal Judge, Family Court, Gurugram. It paragraph-23 of the aforesaid judgement, the Family Court has observed that no cruelty on the part of the husband is proved, rather it is proved against the wife.

7. Counsel for the applicants further submits that against the aforesaid judgement passed by the Family Court, sister of opposite party no.2 filed First Appeal No.351 of 2021 and the same was also dismissed by a detailed order dated 04.12.2024. Counsel for the applicants has invited the attention of the Court towards the cross-examination of the sister of opposite party no.2, which took place in proceedings under Section 125 Cr.P.C., in which she has stated that the case for dowry demand was lodged by her brother at Bahraich and she did not lodge the same. She did not remember as to when the case was lodged by her brother and she was unaware regarding filing of the said case. She also deposed that facts of the aforesaid case were also not known to her. It is submitted that after looking into the statement of the sister of opposite party no.2 and the complaint, it cannot be inferred that any offence is made out against the applicants, particularly on the given facts that in the divorce suit, cruelty has not been proved against the husband rather the same has been proved against the wife. He further submits that complaint has been lodged after two years without any plausible explanation. Further, the complaint does not indicate that at any point of time, opposite party no.2 made any

attempt to lodge the case before the police. It is submitted after divorce decree, both parties are living separately, therefore, at this juncture, the proceedings cannot be allowed to continue. In support of his contention, counsel for the applicants has placed reliance on the judgement of the Hon'ble Supreme Court rendered in Criminal Appeal No.Nil of 2025, arising out of *Special Leave Petition (Criminal) No.10817 of 2024, the case of Mange Ram Vs. State of Madhya Pradesh and another*, decided on 12.08.2025.

8. bare perusal of the complaint, statements under Sections 200 and 202 Cr.P.C., it cannot be said that the offence is not made out. He has further submitted that the trial court after considering the entire evidence on record has summoned the applicants to face the trial and no interference is required by this Court while exercising its power under Section 482 Cr.P.C.

9. Heard learned counsel for the applicants as well as learned AGA and perused the record. However, no one has put in appearance on behalf of opposite party no.2 though name of the counsel has been shown in the cause list.

10. After going through the record, it is clear that the divorce suit filed by applicant no.3 has been decreed as cruelty is not proved against him, rather it is proved against the wife. For the sake of convenience, paragraph-23 of the judgement of the Family Court is quoted below:-

“23. Ex.P20 is the report of Dr. Vipul Rastogi dated 16.4.2015 where the factum of bipolar disorder has been considered but at the same time it has been observed "feels is different with different people. This goes against her bipolar disorder". Therefore this report dated 16.4.2015 Ex.P20 which has also been relied by the petitioner and has also been argued upon by the learned amicus curiae for the respondent to emphasize that petitioner had bipolar disorder only shows that Dr. Vipul has also considered the petitioner not to be having bipolar disorder. In such circumstances, respondent alleging petitioner to be suffering from bipolar disorder when the doctors have also negated such an observation and PW4 Dr. Rekha has stated this factum of assessment to have been made by her on the basis of feedback provided by respondent Shilpa Khanna proves the conduct of the respondent to be cruel towards the petitioner. PW4 Dr. Rekha Mehta may be lacking in her capabilities as a doctor in making an assessment on the basis of the feedback provided by the respondent but at the same time she has cancelled the report Ex.R3 vide Ex.P18/A and has stepped in the witness box and has also deposed on oath regarding the wrong feedback being provided by the respondent to her which were the basis of the report Ex.R3. Apart from the petitioner and the respondent she is the witness of the incident dated

14.4.2015 and has also deposed regarding the conduct of the respondent who was threatening the petitioner to jump from the balcony in the state of panic attack and has also called the police. This conduct of the respondent towards the petitioner amounts to cruelty upon him.”

11. The other important fact to be noted here that the incident took place on 05.06.2013, but the complaint was filed by the brother of opposite party no.2 on 28.03.2015 i.e. after one year and nine months that too without any medical report. Further, the complaint does not indicate that at any point of time, opposite party no.2 made any attempt to lodge the case before the police. The cross-examination of the sister of opposite party no.2 in proceedings under Section 125 Cr.P.C. further indicates that she had no knowledge about the factum of the present case and it appears that her brother had instituted the criminal proceedings just to settle his personal score with *mala fide* intention.

12. In the case of *Mange Ram* (supra), Hon'ble Supreme Court while considering the issue involved in the present case held as under:-

“26. Furthermore, this Court has consistently taken the view that where the matrimonial relationship has come to an end by way of divorce, and the parties have since settled in their respective lives, criminal prosecution emanating from that past relationship ought not to be permitted to linger as a means of harassment.

In the cases of Mala Kar vs. State of Uttarakhand, Criminal Appeal No.1684 of 2024 dated 19.03.2024 ("Mala Kar") and Arun Jain vs. State of NCT of Delhi, Special Leave Petition (Criminal) No.9178 of 2018 dated 01.04.2024 ("Arun Jain"), this Court, while exercising its powers under Article 142 of the Constitution of India, quashed the criminal proceedings arising out of matrimonial discord against the husband. The Court took note of the fact that the couple therein had divorced and held that in such a situation, to continue with criminal prosecution would amount to abuse of the process of law. The reasoning adopted therein applies with equal force to the facts of the present case. Paragraph 12 of Mala Kar and the relevant paragraph in Arun Jain are extracted respectively as under:

"12. Following the aforesaid judgment, in the instant case, we have already noted that there has been a decree of divorce passed between the parties dated 18.10.2014. It is thereafter that on 06.04.2015, the FIR was registered in respect of the criminal complaint filed on 09.08.2014. More significantly, both the appellant No.2 and respondent No.2 have since remarried and are leading their independent lives. Therefore, both parties have accepted the decree of divorce passed by the Family Court on 18.10.2014. Moreover, the appellant No.2- former husband of the respondent No.2 has agreed to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as exgratia to the respondent No.2 herein in full and final settlement of all her claims, with a prayer to this Court to do complete justice in this matter and for invoking its powers under Article 142 of the Constitution of India."

"Following the aforesaid judgments, in the instant case, it is noted that the appellants and respondent No.2 were married on 01.11.1996 and a daughter was born to them on 19.04.2001. It is also stated by learned counsel for the appellants that appellant No.1 left the matrimonial home on 23.04.2007 and thereafter respondent No.2 sought divorce which was granted by the Competent Court on 04.04.2013. It was only thereafter on 31.10.2013 that respondent No.2 filed the complaint against the appellants herein and the FIR was registered on 13.02.2014 and the chargesheet was filed on 22.09.2015.

It is also to be noted that the proceedings initiated under the Protection of Women from Domestic Violence Act, 2005 in the year 2008 by respondent No.2 herein culminated in the dismissal of the said proceeding on merits by order dated 28.07.2017 which has attained finality. Having regard to the aforesaid peculiar and crucial aspects of the present case and by following the order dated 19.03.2024, the appeal is liable to be allowed as we find that this is a fit case where we can exercise powers under Article 142 of the Constitution of India."

13. Considering over all facts and circumstances of the case; observations made by the Family Court in paragraph-23 of the divorce suit; cross-examination of sister of opposite party no.2 in proceedings under Section 125 Cr.P.C.; further the complaint has been filed after one year and nine months and cruelty has not been proved against applicant no.3, rather the same has been proved against the wife, continuance of the criminal proceedings against the applicants are nothing but abuse of process of law and they deserved to be quashed.

14. Application is accordingly **allowed** and the entire proceedings of Complaint Case No.2032 of 2015, Puneet Vs. Amit Khanna and others, under Sections 498-A, 323, 504 and 506 IPC and Section 3/4 Dowry Prohibition Act, Police Station Kotwali Nagar, District Bahraich, pending in the court of Chief Judicial Magistrate, Bahraich including he orders dated 08.03.2017 and 14.08.2015 passed by the courts below, are hereby quashed *qua* the applicants.

(Brij Raj Singh,J.)

April 8, 2026

Rao/-