

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2026:PHHC:018624



CRM-M-1763 of 2017 (O&M)
Reserved on: 29.01.2026
Pronounced on:09.02.2026
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Harjinder Singh and others

..Petitioners

Versus

Paramjit Kaur and another

..Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Salil Dev Singh Bali, Sr. Advocate with
Ms. Simmy Gupta, Advocate,
Mr. Jaiveer Singh Bali, Advocate and
Ms. Aarti Singh, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

SHALINI SINGH NAGPAL, JUDGE

Prayer in the petition under Section 482 Cr.P.C. is for quashing of Complaint No. 246 dated 29.08.2014/17.04.2015 titled Paramjit Kaur Vs. Harjinder Singh and others, pending in the Court of learned Judicial Magistrate Ist Class, Ferozepur, summoning order dated 01.06.2015 passed by learned Judicial Magistrate Ist Class, Ferozepur and order dated 30.11.2016 of learned Additional Sessions Judge, Ferozepur in the revision petition challenging the summoning order.

Complaint under Sections 406, 498-A, 420, 494, 109, 506, 323, 148, 149 IPC was filed by respondent No. 2 in the Court of learned Judicial Magistrate Ist Class, Ferozepur, alleging that her marriage with accused No.1 Harjinder Singh was solemnised on 15.02.2013 according to Sikh rites

and ceremonies at Gurudwara Baba Ram Singh Sarhali Sahib. After marriage they lived together as husband and wife and out of the wedlock, a male child namely Hargun Preet Singh was born. Amount of Rs. 5 lacs was spent by her parents in the marriage and sufficient dowry articles were given to accused No. 1 to 3. Her parents separately entrusted jewellery articles and clothes to accused Nos. 1, 2 and 3 besides furniture articles, details of which have been given in para No.3 of the complaint. Accused received the dowry articles as '*Istri Dhan*' of the complainant at the time of '*Doli*' promising to hand over the same to the complainant when she reached the in-laws house but they did not hand over the Istri Dhan which was still in possession of the accused who were misusing the same.

Complainant further alleged that at the time of Doli, accused Nos 1 to 3 demanded Car from her parents, who expressed their inability but in compelling circumstances, they gave cash of Rs. 3 lacs to accused Nos. 1 to 3. She further alleged that accused were not satisfied with the dowry given. Accused Nos. 2 and 3 instigated accused No.1 against her and her parental family. Accused No.1 belonged to a political party and had association with political leaders and higher police authorities. Accused Nos. 1 and 3 persisted in their demand of car and when she expressed inability, she was severely beaten. During this period, complainant learnt that accused No.1 had illicit relations with one Sarabjit Kaur daughter of Balkar Singh, who was his second wife. Behaviour and attitude of accused was cruel and rude towards the complainant who was turned out of the matrimonial home 2-4 times. Though, she was sent back by her parents with the intervention of Panchayat and relatives, yet behaviour of the accused did not change, they raised demand of Rs.1,50,000/- from her and her parents and threatened to

kill her in case the demand was not met. They also extended threat of remarriage of accused No.1 with another lady. Six months ago, accused Nos. 1 to 3 turned her and her minor son out of the matrimonial home, giving her severe beatings, retaining all dowry articles which were still in their possession. Accused No.1 gave slap blows on her face, accused No.2 gave kick blows on her back and accused No.3 dragged her by her hair. Thereafter, complainant returned to her parental home and since then she was living with her minor son in the house of her parents. Her family tried to patch up the matter with the accused by convening Panchayat and requested accused No.1 to take her back but he bluntly refused and also refused to maintain them. Panchayat requested accused Nos. 1 to 3 to return the dowry articles which they also refused to do and threatened the Panchayat with dire consequences. She further alleged that accused No.1 had performed second marriage with accused No.4 and they were now residing in the house of accused No.2 and 3 as husband and wife. The second marriage was solemnised by accused No.1 and 4 at the instance of accused Nos. 2, 3 and 5 in connivance with each other. Complainant filed application under Section Section 125 Cr.P.C. against accused No.1 for maintenance which was pending. Police was approached for legal action against the accused but no action was taken.

In preliminary evidence, complainant examined herself as CW-1, Ajit Singh as CW-2 and Jaswinder Singh as CW-3. After hearing complainant counsel, learned Judicial Magistrate Ist Class, Ferozpur summoned accused Nos. 1 to 3 under Sections 406, 498-A, 494, 109 IPC and accused No. 4 and 5 under Sections 494, 109 IPC to face trial.

The summoning order dated 01.06.2015 was challenged by filing a Revision Petition which was dismissed by the Court of learned Additional Sessions Judge, Ferozpur, on 30.11.2016.

Learned counsel for the petitioner submitted that respondent No.1 was not the wife of petitioner No.1. She was infact legally wedded wife of one Gurmeet Singh with whom she solemnised marriage in 2005. Out of the wedlock, she had a son by the name of Gurkirat Singh, on 11.09.2006. Respondent No.1 and her husband Gurmeet Singh, filed a joint petition for divorce under Section 13-B of the Hindu Marriage Act, which was dismissed vide order dated 07.01.2013 by learned Additional District Judge, Ferozpur (Annexure P-4). Thereafter again, respondent No.1 and her husband filed a petition under Section 13-B of the Hindu Marriage Act, which was yet again dismissed by Additional District Judge, Ferozpur, on 12.04.2013 vide Annexure P-5. He further argued that a petition under Section 125 Cr.P.C. was filed by respondent No.1 against petitioner No. 1 in the Court of learned Judicial Magistrate Ist Class, Ferozpur. In that case, respondent No.1 appeared as her own witness and in cross-examination, admitted that she was married with one Lakhwinder Singh resident of Village Lalley Tehsil Zira, District Ferozpur, but did not file any petition for divorce against him. Thereafter, she married Gurmeet Singh resident of village Bhullar District Tarn Taran, and both of them filed mutual divorce petition before learned District Judge, Ferozpur, which was dismissed on 07.01.2013.

Learned counsel submits that in the wake of documents Annexures P1 to P7 produced by the petitioners, which the Court could have no reason to doubt, it was clear that no case was made out to summon the petitioners under Sections under Sections 406, 498-A IPC and other

offences as there was no legal marriage between the petitioner and respondent No.1. Infact, petitioner No.1 had been defrauded. Respondent No.1 was only an imposter and the child allegedly born to her out of the wedlock could not be considered as legitimate child of petitioner No.1. The allegations of entrustment of dowry articles and Car etc were false and frivolous. He thus, prayed indulgence of the Court to quash the complaint filed under Sections 406, 498-A, 494, 109 IPC and impugned orders dated 01.06.2015 and 30.11.2016.

Respondent No.1 has not chosen to contest the petition.

Vide order dated 01.06.2015 of learned Judicial Magistrate Ist Class, Ferozpur, petitioners No. 1 to 3 were summoned under Sections 406, 498-A, 494, 109 IPC. Petitioner No.4 was summoned under Section 494 read with Section 109 IPC.

Section 498-A IPC is reproduced hereunder for the facility of reference:-

*“498A. **Husband or relative of husband of a woman subjecting her to cruelty.**— Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*

Explanation.—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is

on account of failure by her or any person related to her to meet such demand.”

Hon’ble Supreme Court of India in ***Shivcharan Lal Verma Versus and another Versus State of Madhya Pradesh, Crl. A. No.735/1996 decided on 19.02.2002***, had the occasion to consider the question:-

“Whether prosecution under Section 498-A can at all be attracted since the marriage with Mohini (second wife) itself was null and void, having been performed during the lifetime of Kalindi (first wife)?”

The three Judges Bench set aside conviction under Section 498-A IPC as the alleged marriage with Mohini (second wife) during the subsistence of valid marriage with the first wife was null and void.

The principle of law laid down in ***Shivcharan Lal Verma’s case (supra)*** was followed by Hon’ble Supreme Court of India more recently in ***P. Sivkumar and others Versus State Rep. By The Deputy Superintendent of Police etc. Criminal Appeal Nos.1404-1405 of 2021 with Criminal Appeal Nos. 1408-1409 of 2012 Decided on 09.02.2023*** wherein it was ruled as under:

*“Undisputedly, the marriage between the appellant No.1 and PW-1 has been found to be null and void. As such the conviction under Section 498-A IPC would not be sustainable in view of the judgment of this Court in the case **Shivcharan Lal Verma’s case supra**. So far as the conviction under Sections 3 and 4 of the Dowry Prohibition Act is concerned, the learned trial Judge by an elaborate reasoning, arrived at after appreciation of evidence, has found that the prosecution has failed to prove the case beyond reasonable doubt. In an appeal/revision, the High Court could have set aside the order of acquittal only if the*

findings as recorded by the trial Court were perverse or impossible.”

A Division Bench of Chhattisgarh High Court in the case of ***Suman Sharma and others Versus State of Chhattisgarh and others, CRMP No.711 of 2022, decided on 18.01.2024***, was called upon to consider the question:-

“Whether the complaint/FIR lodged by the second wife for commission of offence punishable under Section 498-A IPC would be tenable or not?”

The reference was made by a Single Bench in view of the conflicting judgements of three Judges Bench of Hon’ble Supreme Court in the matters of ***Shivcharan Lal Verma and another Vs. State of Madhya Pradesh (2007) 15 SCC 369*** and ***Rajinder Singh v. State of Punjab (2015) 6 SCC 477***. After analysing the judgements, the Division Bench concluded that there was no apparent conflict with the decision rendered by three Judges of Hon’ble Supreme Court in ***Shivcharan Lal Verma’s case (supra)*** and ***Rajinder Singh’s case (supra)***. Further that even if there was a conflict, ***Shivcharan Lal Verma’s case (supra)*** being prior in time was to be followed. The question was answered as under:

*“The complaint or FIR lodged by second wife for commission of offence punishable under Section 498A of the IPC would not be tenable in light of principles of law laid down by their Lordships of the Supreme Court in ***Shivcharan Lal Verma & Another Vs. State of Madhya Pradesh, [(2007) 15 SCC 369]***.”*

The High Court of Allahabad, also had an occasion to deal with an identical issue in the case of ***Akhilesh Keshari and 3 others Versus State***

of U.P. and another, Application under Section 482 No.38288 of 2023, decided on 28.03.2024.

Relying upon the judgments of *Shivcharan Lal Verma's case (supra)* and *P.Sivakumar's case (supra)*, it was held that a strict interpretation was required while interpreting the word 'husband' in Section 498-A IPC as the IPC was a penal provision, not a beneficial legislation. It was held that proceedings under Section 498-A IPC by the opposite party No.2 who was not legally wedded wife of applicant No.1 was not maintainable.

Identical was the dictum of the Kerala High Court in *Dr. Aswin V. Nair Versus State of Kerala and others, Crl. MC No.2654 of 2024 decided on 08.07.2024* and of the Karnataka High Court in *Kantharaju Versus State of Karnataka Criminal Revision Petition No.1372 of 2019, decided on 17.07.2023.*

Thus, in order to attract the penal consequences of Section 498-A IPC, a woman must be subjected to cruelty by her 'husband or his relatives.' Though the term 'husband' has not been defined anywhere, the literal meaning of the term is a *woman's partner in marriage*. Marriage would mean a marriage in the eyes of law, one which has been solemnised as per the Hindu Marriage Act. As per Section 5 of the Hindu Marriage Act, neither party to the marriage should have a living spouse at the time of marriage. Thus, if either the husband or the wife has a subsisting marriage, the second marriage would not be valid.

Prosecution under Section 498-A IPC is not maintainable against an alleged husband and his relatives when the marriage itself is not legal and valid.

In *Suman Mishra and Ors. Vs. State of Uttar Pradesh and Another 2025 INSC 203*, it has been observed that in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case, over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 Cr.P.C. or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.....”

Annexure P-4 is the judgement dated 07.01.2013 of learned Additional District Judge, Ferozepur, in Petition No. 22 of 15.06.2012, titled *Gurmeet Singh Versus Smt. Paramjit Kaur*, under Section 13-B of Hindu Marriage Act, 1955, for dissolution of marriage by mutual consent. In the joint petition seeking divorce by mutual consent, petitioners therein namely Gurmeet Singh and Paramjit Kaur (respondent No.1 before this Court) stated that they had solemnised marriage in the year 2005 as per Sikh Rites through Anand Karaj Ceremony at village Shahdin Wala, Tehsil and District Ferozepur and had a son from the wedlock on 11.09.2006.

Annexure P-5 is copy of judgement dated 12.04.2013 of learned Additional District Judge, Ferozepur, in HMA Case No.16 of 02.03.2013, titled *Smt. Paramjit Kaur Versus Gurmeet Singh*, under Section 13-B of the Hindu Marriage Act. Respondent No.1 and Gurmeet Singh again filed a petition under Section 13-B of the Hindu Marriage Act, for dissolution of marriage by a decree of divorce by mutual consent stating that they were married in the year 2005 according to Sikh rites and a son Gurkirat Singh

was born to them on 11.09.2006. In both cases, the prayer for dissolution of marriage by mutual consent was declined. Reasons for refusing relief are not relevant for adjudication of the proceedings before this Court.

Annexure P-6 is the cross-examination of Paramjit Kaur (respondent No.1) recorded on 23.09.2016, in a petition under Section 125 Cr.P.C. pending between the parties. In cross-examination, respondent No.1 conceded that she was earlier married with one Lakhwinder Singh resident of village Lalley Tehsil Zira, District Ferozepur and that she divorced him before the Panchayat but no application for divorce was filed in any civil Court. She went on to state that she again married Gurmeet Singh and a male child was born from the wedlock; that they filed a mutual divorce petition before the Court at Ferozepur, which was dismissed.

Annexure P-7 is cross-examination of Khalsa Singh, younger brother of respondent No.1. He too admitted that Paramjit Kaur was earlier married with Lakhwinder Singh of Village Lalley at Makhu, took Panchayati *talak* from him and performed marriage with Gurmeet Singh with whom she lived for two years. He stated that she neither took divorce through the competent Court from Gurmeet Singh nor from Lakhwinder Singh.

Annexures P-4, P-5 which are judgements of the Matrimonial Court at Ferozepur as also Annexures P-6 and P-7, cross-examination of respondent No.1 and her brother, are documents of impeccable integrity which this Court can have no occasion to doubt. What transpires therefrom is that the alleged marriage with petitioner No.1 Harjinder Singh was not first marriage of the respondent. She was earlier married to one Lakhwinder Singh and then to Gurmeet Singh and the marriage with Harjinder Singh was

the third one. It is also evident that neither the marriage with Lakhwinder Singh was legally dissolved nor with Gurmeet Singh.

The marriage of respondent No.1 with petitioner No.1 having been solemnised during the subsistence of earlier marriage of respondent No.1, petitioner No.1 cannot be termed “husband” of respondent No.1 nor remaining petitioners can be termed as “relatives of the husband.” Therefore, cognizance taken by the Magistrate under Section 498-A of the Indian Penal Code, acting on the statements of witnesses in preliminary evidence, is liable to be quashed.

Petitioners No. 1 to 3 have also been summoned by learned Magistrate under Section 494 IPC which reads as under:

‘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.’

Once, there was no legal marriage between petitioner No.1 and respondent No.1 cognizance of offence under Section 494 IPC or under Section 109 IPC also could not have been taken.

The essential ingredients to constitute an offence under Section 406 IPC are also clearly missing. Section 406 of the Indian Penal Code reads thus:-

“406. Punishment for criminal breach of trust.—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

In ***State of Haryana Versus Hari Chand and others, CRA-S-1984-SBA of 2004 decided on 05.06.2015***, a coordinate Bench of this Court, observed that offence under Section 406 IPC cannot be presumed in the absence of demand for return of the dowry articles. Simple retention of *Istri Dhan* without there being any demand to return the same does not attract culpability in terms of Section 406 IPC. It was held that in the absence of refusal to return *Istri Dhan*, no offence much less offence under Section 406 IPC was made out. Similar were the observation of the Apex Court in ***Kamlesh Kalra Versus Shilpika Kalra and others, Criminal Appeal No.416 of 2020 decided on 24.04.2020***.

Statement of CW-1 Paramjit Kaur, CW-2 Ajit Singh and CW-3 Jaswinder Singh, recorded in preliminary evidence, were placed on record by learned counsel for the petitioners during the course of arguments. Though all witnesses stated that particular items as such gold jewellery, watches, clothes etc. were gifted to petitioners No. 1 to 3 and other articles such as furniture, double bed, sofa set and dressing table, gold-silver ornaments were given to petitioners No.1 to 3 jointly, at the time of *doli* with the promise to handover the same on reaching the house, there is no allegation in the statements of witnesses that respondent No.1 Paramjit Kaur,

ever demanded her *Istri Dhan* articles from the petitioners and that there was refusal by them to return the *Istri Dhan*.

Thus, offence under Section 406 IPC could also not be invoked against the petitioners.

In the case of ***State of Andhra Pradesh Vs. Golconda Lingaswamy (2004) 6 SCC 552***, after considering the decisions of ***R.P. Kapur Vs. State of Punjab AIR 1960 SC 866***, ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, and other decisions on the exercise of inherent powers by the High Court under Section 482 Cr.P.C, the Apex Court held as under:

*‘5. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely: (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid aliqne concedit, conceditur et id sine quo res ipsa esse non potest* (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised*

sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.'

Considering the admission of respondent No.1 in collateral proceedings that it was her third marriage with petitioner No.1 and her two previous marriages were not legally dissolved well fortified by the judgments dated 07.01.2013 and 12.04.2013 (Annexure P-4 and Annexure P-5) of Additional District Judge, Ferozepur, the continuation of criminal proceedings against the petitioners alleged to be the husband, relatives of husband and second wife, would be an abuse of the process of law and would result in grave injustice.

Criminal complaint No. 246/29.08.2014/17.04.2015 titled '*Paramjit Kaur vs. Harjinder Singh and others*,' summoning order dated 01.06.2015 passed by Judicial Magistrate Ist Class, Ferozepur; order in revision dated 30.11.2016 passed by Additional Sessions Judge, Ferozepur and all subsequent proceedings arising therefrom are thus liable to be quashed.

Ordered accordingly.

All the pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

09.02.2026

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Whether speaking/reasoned : Yes
Whether reportable : Yes