



2025 INSC 235

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. _____ OF 2025
(@Special Leave Petition (Crl.) No.14544 of 2024)**

**VARSHA DEVI ALIAS VARSHA SHUKLA
...Appellant**

Vs.

STATE OF U.P. & ORS. ...Respondents

ORDER

Leave granted.

2. The appellant is a hapless lady who seeks quashing of the summons issued in Complaint Case No.458 of 2023 (Old No.587 of

2022) pending in the Court of the Judicial Magistrate (J.D.) Fast Track Court No.01, Farrukhabad and also challenges the order of the High Court of Judicature at Allahabad in a revision filed against the summons issued to the appellant in the aforesaid complaint. The complaint was instituted by her husband who has now obtained an *ex parte* divorce from her. The complaint is that when the marriage with the complainant was subsisting, the accused-wife entered into a second marriage with another person; in which a child was also born.

3. We have heard Ms. Mona K. Rajvanshi, learned Counsel appearing for the appellant and also Mr. Sudhir Kulshreshtha, learned Counsel appearing for the respondent No.2-husband.

4. Ms. Mona K. Rajvanshi, learned Counsel appearing for the appellant-wife submitted that the complaint is venomous, vindictive and vengeful and is a counter blast to the various prosecutions initiated by the appellant-wife against respondent No.2-husband under Section 498A of the Indian Penal Code, 1860¹ and the Dowry Prohibition Act, 1961. The appellant was unceremoniously thrown out of her matrimonial home, for reason only of the exorbitant demand of dowry having not been met, for which failure she was also subjected to physical violence. The appellant, in desperation, had to return to her paternal home and is barely eking out her livelihood. It is asserted that there is no second marriage nor a child born to the appellant.

¹ "I.P.C."

5. Mr. Sudhir Kulshreshtha, learned Counsel appearing for the respondent No.2-husband/complainant vigorously asserts that the appellant has, in fact, entered into a second marriage. There are witnesses to the second marriage on whose oral statements the Magistrates' Court has issued summons. There is no reason to interfere in the criminal proceedings initiated by the Magistrate at this stage. The second marriage, while the first one was subsisting, if condoned, would send a wrong message to the society.

6. We have gone through the records of the case and find that the proceedings initiated are indeed malicious. We see from the report of investigation submitted by the Police, at the first stage (Exhibit P-8) that statements were recorded from the neighbourhood of the parental residence of

the appellant, all of whom spoke of the appellant having not entered into a second marriage or given birth to a child; in their knowledge. However, surprisingly, on the basis of an entry in a register of the Community Health Centre, Allahganj (Exhibit P-10) a subsequent report was submitted finding a case made out on the complaint. We cannot but notice, from the entry referred to that there is no investigation carried out as to whether the person mentioned therein was in fact the appellant. The police have also not been able to trace out the child or the husband; who form the foundation of the allegations.

7. We also notice that in Exhibit P-18, an *ex parte* order dated 17.08.2022 of the Family Court, granting divorce to the respondent on the ground of desertion of his wife; the appellant, it

has been categorically held that the husband-petitioner therein, though took the identical contention of a second marriage and a child born therein, was not able to establish the same. Strangely, in the maintenance case filed, in which the Principal Judge, Family Court has passed an order granting maintenance, produced at Exhibit P-19 dated 31.08.2022, the husband who was the respondent had not taken a plea of second marriage to resist the claim of maintenance.

8. We also see that the appellant has filed a complaint under Section 498A and initiated proceedings under the Dowry Prohibition Act. The respondent No.2 herein has also initiated criminal proceedings against the appellant and her parents, including that of dacoity and robbery. One such case of threats levelled and cash looted, ended with

the quashing of the summons issued, by this Court as is evident from Annexure P-13.

9. The appellant has also produced documents to refute the allegation of child bearing; the certificate issued by the Certificate of the Medical Superintendent where the appellant is employed on contract (Annexure A-1) and the bank statements (Annexure A-2) to establish that in the months of November and December 2021, she had been continuously working, without leave in the CHC and receipt of her salary for the said months; the date of delivery alleged being 25.11.2021. We have to reiterate that the proceeding initiated, which is challenged herein is malicious and there is no cause to permit continuance of the same. We, therefore, set aside the impugned judgment of the High Court and quash the summons issued in

Complaint Case No.458 of 2023 (Old No. 587 of 2022) pending in the Court of Judicial Magistrate (J.D.) Fast Track Court No.01, Farrukhabad, which complaint case shall stand closed.

10. Accordingly, the appeal stands allowed, as above.

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

....., J.
[SUDHANSHU DHULIA]

....., J.
[K. VINOD CHANDRAN]

**NEW DELHI;
FEBRUARY 14, 2025.**