

[2026 LiveLaw \(SC\) 381](#)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJAY KUMAR; J., K. VINOD CHANDRAN; J.
Special Leave Petition (Crl.) No. 13755 of 2025; April 16, 2026
Rahul Gupta versus Station House Officer and others

Statutory Immunity against Prosecution for 'Giving' Dowry — Section 7(3) of the Dowry Prohibition Act, 1961 — Protection to 'Persons Aggrieved' – Held - Statements made by a wife or her family members (as aggrieved persons) regarding the giving of dowry, recorded during the investigation of an offence of 'taking' dowry, cannot form the sole basis for a counter-prosecution against them under Section 3 of the DP Act. Section 7(3) provides a statutory "shield of immunity" ensuring that such statements do not subject the aggrieved person to prosecution - A separate FIR for 'giving' dowry could only be registered if independent evidence is presented, rather than relying solely on the protected statements of the wife and her kin.

Precedential Value of High Court Decisions — *Neera Singh vs. State* (Delhi High Court) — Per Incuriam – Held - The observations in *Neera Singh vs. State* (2007), which suggested that police should register cases against parents who give dowry, are of no precedential value and are considered obiter dicta - That judgment was rendered in ignorance of the specific statutory protection under Section 7(3) of the DP Act and is, therefore, not good law. [Relied on *Pooja Saxena vs. State and another* (2010 SCC OnLine Del 3652); *Surendra Singh Rathore* (2025 INSC 248); Paras 13-21]

For Petitioner(s): Petitioner-in-person

For Respondent(s): Mr. Prashant Singh, AOR Mr. Pradeep Kumar Rai, Sr. Adv. Dr. N. Pradeep Sharma, Adv. Mr. Saif Rizvi, Adv. Ms. Farhat Naim, Adv. Ms. Modoyia K., Adv. Mr. S.K. Rout, Adv. Ms. Vidhi Gupta, Adv. Mr. Abhishek Gupta, AOR

J U D G M E N T

SANJAY KUMAR, J

1. Matrimonial relations having soured between the couple, the fallout was litigation and exchange of acrimonious allegations. FIR No. 03 of 2023 was registered on 07.01.2023 by the Mahila Thana, Ambikapur, on the complaint made by the wife, Radhika Gupta, respondent No. 7, against the husband, Rahul Gupta, the petitioner, and his family members for offences punishable under Section 498A of the Indian Penal Code, 1860¹, and Section 3 of the Dowry Prohibition Act, 1961². The petitioner's grievance is that a FIR was not registered on his complaint dated 25.12.2023, wherein he had alleged that the complaint and statements made by his wife and her family members amounted to acceptance of their giving dowry and that Section 3 of the DP Act criminalized both the 'giving' and the 'taking' of dowry, requiring registration of an FIR against them.

2. The petitioner's endeavour to get an FIR registered failed before the learned Judicial Magistrate First Class, Raipur, and then, in revision, before the learned IV Additional Sessions Judge, Raipur. Thereupon, he approached the High Court of Chhattisgarh at Bilaspur, by way of Criminal Miscellaneous Petition No. 2754 of 2024,

¹ For short, 'IPC'

²For short, 'the DP Act'

under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023³. However, this attempt also met with failure as the High Court dismissed his petition on 23.04.2025. Aggrieved thereby, he filed the present petition.

3. Upon hearing the petitioner, who appears as a party-in-person; the learned senior counsel appearing for the contesting respondents; and the learned counsel for the State of Chhattisgarh, this Court, by order dated 22.01.2026, requested Mr. Dhananjaya Mishra, learned counsel, to assist the Court as *amicus curiae*.

4. Facts relevant for the purposes of this order may now be set out. The marriage between the couple was solemnised on 24.11.2007 at Raipur, Chhattisgarh. They have three children, two daughters and a son, who are stated to be residing with the father at Raipur. The wife left the matrimonial home on 25.12.2021 and returned to her parental home. She sought a divorce while the husband sought restitution of conjugal rights.

5. FIR No. 03 of 2023 was registered on 07.01.2022 at the behest of the wife against the petitioner and his family members. In her statement recorded under Section 161 of the Code of Criminal Procedure, 1973⁴, the wife spoke of dowry being discussed at the time of her marriage and the payment of dowry before the marriage itself. Similar statements were made by her family members. After completion of the investigation in relation to the said FIR, chargesheet dated 07.01.2023 was filed against the petitioner and his parents for offences under Section 498A IPC and Section 3 of the DP Act. Thereafter, the petitioner addressed written complaint dated 25.12.2023 seeking registration of a separate FIR against his wife and her family members. His allegation was that though dowry was not taken by him and his family, the statements made by his wife and her family members to the effect that they had given dowry constituted the offence of 'giving' dowry under Section 3 of the DP Act. He also made certain other allegations which are not relevant for our purposes presently.

6. As his complaint failed to evoke the expected response, the petitioner filed an application under Section 156(3) CrPC before the learned Judicial Magistrate First Class, Raipur. This application was dismissed by order dated 19.01.2024. Perusal of the order reflects that the learned Magistrate was of the opinion that accepting the plea of the petitioner would amount to directing reinvestigation in the FIR already registered at the instance of the wife. Holding that he had no such power to direct reinvestigation or *de novo* investigation, the learned Magistrate rejected the plea of the petitioner. Thereupon, the petitioner applied for review of the aforesaid order dated 19.01.2024 passed by the learned Magistrate under Section 114 of the Code of Civil Procedure, 1908. This application was rejected on 15.02.2024 by the learned Magistrate, holding that there was no provision in the Code of Criminal Procedure, 1973, enabling review of an order passed thereunder.

7. The petitioner then filed a revision under Section 397 CrPC before the learned IV Additional Sessions Judge, Raipur, assailing the orders dated 19.01.2024 and 15.02.2024. However, the revision was dismissed by order dated 23.08.2024. Therein, the learned Sessions Judge upheld the view of the learned Magistrate that there was no provision permitting review of an order passed in a criminal case. On the rejection of the petitioner's application under Section 156(3) CrPC, the learned Sessions Judge held that, based on the allegations made by the petitioner, it could not be said that a cognizable

³For short, 'the BNSS'

⁴For short, 'the CrPC'

offence was made out and the Magistrate had, therefore, not committed any error in dismissing the said application.

8. Assailing this order, the petitioner approached the High Court by way of the subject petition under Section 528 BNSS. However, by the order dated 30.07.2025, the High Court dismissed the petition. Perusal of the said order reflects that the High Court agreed with the petitioner that he was not seeking further investigation in FIR No. 03 of 2023 and his grievance was with regard to the failure to register a separate FIR based on the statements made by his wife and her family members during the course of investigation in FIR No. 03 of 2023. The High Court, however, opined that the allegations made by the petitioner would necessarily entail oblique reinvestigation in FIR No. 03 of 2023. The High Court held that a Magistrate could not be reduced to a post office to direct registration of an FIR. In the light of the concurrent orders passed by the learned Magistrate and the learned Sessions Judge, the High Court concluded that there was no scope to interfere. The petition was, accordingly, dismissed.

9. Perusal of the petitioner's complaint dated 25.12.2023 and his application under Section 156(3) CrPC manifests that the wife's written complaint and the statements made by the wife and her family members, recorded under Section 161 CrPC, were the only material relied upon by the petitioner to seek initiation of criminal proceedings against them for the offence under Section 3 of the DP Act. He also relied upon the decision of the Delhi High Court in **Neera Singh vs. State (Govt. of NCT of Delhi) and others**⁵, which held that action must also be taken against those who give dowry. In effect, the only foundation laid by the petitioner for registration of an FIR under Section 3 of the DP Act was the wife's complaint and the statements of the wife and her family members, recorded under Section 161 CrPC. No independent evidence in proof of the 'giving' of dowry was offered by the petitioner. Whether this was sufficient to set the process of criminal law in motion is the question.

10. The DP Act was promulgated to address the evil of dowry system prevalent in our country. The Statement of Objects and Reasons records that this legislation aimed at prohibiting the evil practice of 'giving and taking' of dowry. The DP Act came into force on 01.07.1961. Section 3 thereof is titled 'Penalty for giving or taking dowry'. Section 3 of the DP Act, as it originally stood, read as under: -

'3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.'

11. Section 3(1), which was the original Section 3, with later amendments, now states that if any person, after the commencement of the DP Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years and with fine which shall not be less than ₹15,000/- or the amount of the value of such dowry, whichever is more. The *proviso* thereto, however, empowers the Court to impose a sentence of imprisonment for a term of less than five years after recording adequate and special reasons therefor.

12. Mr. Dhananjaya Mishra, learned *amicus curiae*, placed before us extracts from the Joint Parliamentary Committee Report dated 11.08.1982 in the context of Section 3 of the DP Act and the offence of 'giving' dowry. The objections of the members of the Committee to the same were broadly on the ground that the parents of the bride, who submit a complaint in relation to dowry, would then be open to prosecution; that the giver of dowry

⁵(2007) 138 DLT 152 = ILR (2007) 1 DEL 691

is usually compelled to do so, as girls would remain unmarried otherwise; that the giver of the dowry should not be dealt with on equal footing as the taker, being the aggrieved party; and that the giver of dowry is forced to do so by societal and customary norms. One of the recommendations of the Committee was that the givers of dowry, i.e., the parents, should not be equated with those who take the dowry, as the givers are victims rather than criminals, as parents are compelled to give dowry and they do not do so out of their free will. The Committee also observed that if both the giver and the taker are penalised, no giver of dowry can be expected to come forward to make a complaint, being under the threat of being prosecuted himself.

13. It was pursuant to this Joint Parliamentary Committee Report dated 11.08.1982, that major amendments were made to the DP Act. The first set of amendments were made in the year 1984 and, thereafter, Act 43 of 1986 brought about further changes therein. It is in this context that the learned *amicus curiae* drew our attention to Section 7(3) of the DP Act, which is of utmost significance. This sub-section was inserted in the DP Act with effect from 19.11.1986 by Act 43 of 1986. Section 7 is titled 'Cognizance of offences'. It reads as under: -

'7. Cognizance of offences.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

- (a) no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;
- (b) no court shall take cognizance of an offence under this Act except upon—
 - (i) its own knowledge or a police report of the facts which constitute such offence, or
 - (ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation;
- (c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

*Explanation.—*For the purposes of this sub-section, "recognized welfare institution or organisation" means a social welfare institution or organisation recognized in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.

(3) Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.'

In essence, Section 7(3) provides that statements made by the wife and her family members, being the persons aggrieved, against the husband and his family with regard to the 'taking' of dowry cannot be the substratum for launching prosecution against the wife and her family members for the offence of 'giving dowry' under Section 3 of the DP Act.

14. Significantly, in **Neera Singh** (*supra*), a learned Judge of the Delhi High Court observed that the complaint made by the wife therein showed that dowry demands were made even before the marriage and despite being well-educated, the wife went ahead with the marriage. Opining that these kinds of allegations made after the breakdown of marriage indicated the mentality of the complainants, the High Court concluded that such allegations should result in the police registering a case under the DP Act against the parents of the wife as well, who had gotten their daughter married despite demand for dowry. Reference was made to Section 3 of the Act, which prohibits 'giving and taking' of

dowry but, surprisingly, the High Court failed to notice Section 7(3), which specifically states that a statement made by the 'person aggrieved' by the offence shall not subject such person to prosecution under the DP Act. Failing to stop short at this blunder, the High Court went on to state that Metropolitan Magistrates should take cognizance under the DP Act in respect of the offence of 'giving' dowry whenever allegations were made that dowry was given as a consideration for the marriage.

15. Notably, **Neera Singh** (*supra*) was a case where the wife's complaint of dowry harassment was not accepted by the learned Magistrate and, thereafter, the learned Sessions Judge held that no *prima facie* case was made out under Section 498A IPC against the husband and his family. This was, thus, not even a case involving an allegation as to the wife's family being liable for prosecution for 'giving' dowry. The observations and comments made by the High Court in that regard were, therefore, completely uncalled for and unnecessary.

16. Section 7(3) of the DP Act did fall for consideration before various High Courts thereafter. The Delhi High Court had occasion to deal with it in **Pooja Saxena vs. State and another**⁶. Therein, the wife had sought quashing of the FIR registered against her under Section 3 of the DP Act for the offence of 'giving' dowry. Adverting to **Neera Singh** (*supra*), the learned Judge held that the observations made therein were in the nature of *obiter dicta*. Further, the learned Judge noted that Section 7(3) of the DP Act had not been taken into account and, therefore, **Neera Singh** (*supra*) was not of guidance. On facts, the learned Judge held that Section 7(3) of the DP Act would come to the rescue of the wife and she could not, therefore, be subjected to prosecution under Section 3 of the DP Act. This Court confirmed the view taken by the learned Judge, as SLP (Cri.) Nos. 1339-1340 of 2011 filed against his order were dismissed on 07.03.2011. Again, in **Yashpal Kumar vs. Bhola Nath Khanna and another**⁷, the Delhi High Court followed the view taken in **Pooja Saxena** (*supra*).

17. The Madras High Court had occasion to consider the provision in **Ajita David vs. State, by Inspector of Police, and another**⁸. Therein, the Madras High Court held that Section 7(1)(b)(ii) of the DP Act could not be interpreted to mean that a parent of the bride would not fall within the category of a 'person aggrieved'. It was observed that the parent of the victim girl is definitely a person aggrieved by the offence and, by no stretch of imagination, the legislature would have thought of excluding the parent from the purview of the 'person aggrieved' by the offence, while drafting Section 7(3) of the DP Act. The High Court concluded that, at any rate, the phrase 'person aggrieved by the offence' employed in Section 7(3) of the DP Act could not be construed in such a manner that it would only refer to the bride as, in its considered opinion, the parents and other relatives of the bride can safely be classified as 'persons aggrieved' by the offence, as contemplated under Section 7(3) of the DP Act.

18. Similar views were expressed by the Jharkhand High Court in **Ram Gopal Sah vs. State of Jharkhand**⁹ and by the Madhya Pradesh High Court in **Haji Sayyad vs. State of M.P. and another**¹⁰. The Allahabad High Court also followed suit in **Ram Charitra Tiwari and others vs. State of UP and another**¹¹. Given the weighty judicial thought

⁶2011(1) Crimes 378 (Del) = 2010 SCC OnLine Del 3652

⁷(2012) 2 DLT (Cri) 41

⁸(2009) 2 MWN (Cri) 257

⁹2009 (1) JLJR 432 (HC)

¹⁰ILR 2012 MP 2610

¹¹ILR (2021) 7 ALL 379

process reflected in the aforesaid decisions, with which we are in complete agreement, the decision in **Neera Singh** (*supra*), relied upon by the petitioner, has no value. The observations therein have no precedential effect, having been made in ignorance of Section 7(3) of the DP Act.

19. However, as rightly pointed out by the learned *amicus curiae*, we may clarify that a second FIR can be registered on the strength of a complaint, which presents a rival version or a counter claim (See **Upkar Singh vs. Ved Prakash and others**¹²). Elaborating on this principle in **Anju Chaudhary vs. State of Uttar Pradesh and another**¹³, this Court opined that there cannot be two FIRs registered for the same offence but where the incident is separate; offences are similar or different, or even where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the first FIR, then a second FIR can be registered. The recent decision of this Court in **State of Rajasthan vs. Surendra Singh Rathore**¹⁴ culled out five principles on the issue of registration of a second FIR: -

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different.'

20. Therefore, had it been a case where independent evidence was presented with regard to the 'giving' of dowry and reliance was not placed only upon the complaint and statements made by the persons aggrieved, i.e., the wife and her family members, it would have been possible to register an FIR for the offence of 'giving' dowry under Section 3 of the DP Act as, in such a situation, the protection afforded to the 'persons aggrieved', under Section 7(3) of the DP Act, would not be available to them. However, if in a given case all that is projected to establish the offence of 'giving' dowry under Section 3 of the DP Act is the complaint and/or the statements made by the wife and her family members, it would invariably mean that they, being the 'persons aggrieved', would be fully covered by the shield of immunity raised under Section 7(3) of the DP Act and would not be liable to be prosecuted on the strength thereof.

21. On the above analysis, we find no grounds made out to interfere with the orders passed by the learned Magistrate and the learned Sessions Judge, which stood confirmed by the impugned order passed by the High Court, though on the grounds cited hereinabove. To sum up, we find that the grievance of the petitioner has no merit as his attack against his wife, Radhika Gupta, respondent No.7, and her family members was based only upon her complaint and the statements recorded by her and her family members, under Section 161 CrPC, and the statutory protection under Section 7(3) of the DP Act was, therefore, applicable to them.

¹²(2004) 13 SCC 292

¹³(2013) 6 SCC 384

¹⁴ 2025 INSC 248 = 2025 SCC OnLine SC 358

22. The special leave petition is bereft of merit and is, accordingly, dismissed. Last, but not the least, we must place on record our earnest gratitude and appreciation for the erudite and invaluable assistance provided by Mr. Dhananjay Mishra, learned *amicus curiae*.

Pending applications, if any, shall also stand dismissed.

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