



CGHC010171182025

2026:CGHC:35538-DB
NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 1557 of 2025**

Smt. Rashi Sharma W/o Ankit Sharma, D/o Rajesh Kumar Tiwari Aged About 32 Years R/o Mahima Nagar, Behind Yadunandan Dairy, Sirgitti, Bilaspur, Tahsil And District Bilaspur Chhattisgarh

... Petitioner(s)**versus**

1 - State of Chhattisgarh Through S.H.O. P.S. New Rajendra Nagar, District - Raipur Chhattisgarh

2 - Ankit Sharma S/o R.D. Sharma Aged About 38 Years House No. 9, Adinath Vatika, Amlideeh, Raipur, P.S. New Rajendra Nagar, Tahsil And District - Raipur Chhattisgarh

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s) : Mr. Sunil Otwani, Senior Advocate, along with Mr. Hemant Gupta, Advocate.

For State : Mr. Ashish Shukla, Additional Advocate General.

For Respondent No. 2 : Mr. Shivendu Pandya, Advocate along with Mr. Purnendra Khichariya, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board**Per Ramesh Sinha, Chief Justice****12/08/2026**

1. Heard Mr. Sunil Otwani, learned Senior Advocate, along with Mr.

Hemant Gupta, learned counsel for the petitioner. Also heard Mr. Ashish Shukla, learned Additional Advocate General, for the State, Mr. Shivendu Pandya, along with Mr. Purnendra Khichariya, learned counsel appearing for the respondent No. 2.

2. The petitioner has filed the present petition with the following prayer:

"1. That this Hon'ble court may kindly be allow the instant Cr. M. P. petition & Set aside order dated 24-07-2024 in its entirety and resultantly the Hon'ble court may also Quash the Charges-sheet produced under Section 420, 494 of I.P.C, in the Crime No. 316/2024, registered at P.S. - New Rajendra Nagar, Raipur, District - Raipur, District - Raipur, in Criminal Case no 800/2025, in the interest of justice.

2. That the adequate Cost of litigation be also be awarded to the petitioner, for indulging her in malicious, unrealistic, prosecution by the complainant / respondent no 2 in the instant case

3. That the cost for harassment would also be granted to the petitioner."

3. The brief facts of the case are that the petitioner and respondent No.2 solemnized their marriage on 29.01.2023, while the petitioner had an earlier marriage in respect of which divorce proceedings were pending and a decree of divorce was subsequently passed by the Family Court, Bilaspur, on 28.01.2023. According to the petitioner, respondent No.2 and his family members were fully aware of her earlier matrimonial status and the pending divorce proceedings. Subsequently, matrimonial discord arose between the parties, whereafter the petitioner approached the Mahila Thana and also lodged a complaint against her father-in-law. It is alleged that respondent No.2 thereafter initiated proceedings against the petitioner under Section

156(3) of the Cr.P.C. and, after an earlier application was not pressed, filed a subsequent application on substantially similar allegations. On the said application, the learned Judicial Magistrate First Class, Raipur, vide order dated 24.07.2024, directed registration of an offence under Sections 420 and 494 of the IPC, pursuant to which Crime No.316/2024 was registered at Police Station New Rajendra Nagar, District Raipur, and after investigation, charge-sheet was filed, giving rise to Criminal Case No.800/2025. The petitioner has, therefore, approached this Court seeking quashing of the impugned order, FIR and consequential charge-sheet, principally contending that the essential ingredients of the alleged offences are not made out and that the criminal proceedings have been initiated with an ulterior motive and amount to abuse of the process of law.

4. Learned counsel for the petitioner would submit that the impugned order dated 24.07.2024 passed by the learned JMFC, Raipur, directing registration of FIR under Sections 420 and 494 of the IPC and the consequential charge-sheet arising out of Crime No.316/2024 are unsustainable in law. It is contended that respondent No.2 was fully aware of the petitioner's earlier marriage and the proceedings relating thereto, having accompanied her to Satna for collecting her belongings and being aware of the divorce proceedings before the Family Court, Bilaspur, wherein decree of divorce was granted on 28.01.2023. Therefore, there was neither concealment, deception nor dishonest inducement on the part of the petitioner so as to constitute an offence under Section 420 IPC, nor are the ingredients of Section 494 IPC made out. Learned counsel further submits that respondent No.2 has suppressed material facts and, after withdrawal of his earlier application under Section 156(3) Cr.P.C., filed a subsequent

application on substantially similar allegations without obtaining any liberty from the competent Court, which demonstrates mala fide intention and amounts to abuse of the process of law. It is further contended that the learned Magistrate failed to apply judicial mind and passed the impugned order without following the procedure prescribed under law.

5. He would further submit that the allegations contained in the FIR and the charge-sheet, even if taken at their face value and accepted in their entirety, do not disclose the essential ingredients of Sections 420 and 494 IPC. The criminal proceedings have been initiated in the backdrop of a matrimonial dispute and after the petitioner had lodged a complaint against her father-in-law, with the ulterior motive of pressurizing and harassing her. It is further submitted that the continuation of the criminal proceedings, in the absence of the basic ingredients of the alleged offences and in view of the material available on record, would amount to abuse of the process of law and cause serious prejudice to the petitioner. He, therefore, prays that the order dated 24.07.2024, the FIR registered pursuant thereto and the consequential charge-sheet pending in Criminal Case No.800/2025 be quashed in exercise of the inherent jurisdiction of this Court.

6. Learned State counsel would oppose the petition and submit that the learned JMFC, Raipur, after considering the application filed by respondent No.2 under Section 156(3) of the Cr.P.C. and the documents placed on record, found a prima facie case against the petitioner for the offences under Sections 420 and 494 of the IPC and, accordingly, vide order dated 24.07.2024, directed registration of the FIR, pursuant to which Crime No.316/2024 was registered at Police Station New Rajendra Nagar, Raipur, and after due investigation, statements of the complainant and other

witnesses were recorded and charge-sheet has been filed before the competent Court. It is submitted that the criminal case is presently pending before the learned Trial Court and the petitioner has an efficacious remedy to raise all her objections and defences before the Trial Court, including by seeking discharge in accordance with law, and thereafter to avail the appropriate remedy, if required. Learned State counsel would further submit that the allegations and defence raised by the petitioner involve disputed questions of fact, which cannot appropriately be adjudicated in proceedings invoking the inherent jurisdiction of this Court, and that this Court, while exercising such jurisdiction, is not required to undertake appreciation of evidence or conduct a mini-trial. It is therefore contended that no manifest illegality, perversity or abuse of the process of Court has been demonstrated warranting interference at this stage, and the petition, being devoid of merit, deserves to be dismissed.

7. Learned counsel appearing for respondent No.2 would submit that the present petition is devoid of merit and that a prima facie case under Sections 420 and 494 of the IPC is made out against the petitioner. It is contended that the petitioner married respondent No.2 on 15.05.2022 during subsistence of her earlier marriage with Arunesh Kumar Badgaiya, from whom she obtained divorce only on 28.01.2023, and therefore, the material facts disclosed during investigation do not warrant quashing of the FIR or charge-sheet at this stage. It is further submitted that the petitioner has not approached this Court with clean hands and has suppressed material facts regarding the earlier marriage, subsequent matrimonial proceedings and various criminal cases instituted by her against the respondent and his family members. Learned counsel would further submit that the disputed questions of fact and the

defence raised by the petitioner cannot be examined in exercise of the inherent jurisdiction of this Court, particularly when the charge-sheet has already been filed and the criminal case is pending before the competent Court. It is, therefore, prayed that the petition being meritless and premature be dismissed with costs.

8. We have heard learned counsel for the parties and perused the documents annexed with this petition.

9. From the allegations contained in the FIR, the charge-sheet and the documents collected during investigation, it is not in dispute that the petitioner's earlier marriage with Arunesh Kumar Badgaiya was subsequently dissolved by decree of divorce dated 28.01.2023 passed by the competent Family Court. The prosecution case proceeds on the premise that, on the date of her marriage with respondent No.2, the earlier marriage was subsisting and that the petitioner had concealed this fact from respondent No.2. However, for constituting the offence of cheating under Section 420 IPC, the prosecution is required to disclose the essential element of deception and dishonest or fraudulent inducement resulting in delivery of property or alteration/destruction of a valuable security. Mere allegation that a material fact relating to the matrimonial status was not disclosed, without the necessary ingredients of deception and dishonest inducement, would not by itself constitute an offence under Section 420 IPC. The Supreme Court in **Hridaya Ranjan Prasad Verma & Ors. v. State of Bihar & Anr., (2000) 4 SCC 168**, has held that the essential ingredient of the offence of cheating is deception and dishonest inducement, and that a mere breach of promise or failure to fulfil an obligation does not constitute cheating unless fraudulent or dishonest intention existed from the inception.

10. So far as Section 494 IPC is concerned, the prosecution itself records that the petitioner's earlier marriage was dissolved by a decree dated 28.01.2023. The date of the subsequent marriage is stated by the parties differently; however, even accepting the prosecution version for the purpose of consideration, the material placed on record does not satisfactorily disclose the foundational facts necessary to establish the offence of bigamy, particularly the factum and validity of the alleged second marriage in accordance with the essential ceremonies prescribed by law. It is well settled that, for an offence of bigamy, the prosecution must establish the subsistence of the first valid marriage as well as the valid solemnization of the subsequent marriage. In **Kanwal Ram & Ors. v. The Himachal Pradesh Administration, AIR 1966 SC 614**, the Supreme Court held that in a prosecution for bigamy, the fact of the second marriage must be proved by cogent evidence and that mere admission of marriage by the accused is not sufficient. Likewise, in **Sarla Mudgal (Smt.) & Ors. v. Union of India & Ors., (1995) 3 SCC 635**, the Supreme Court recognized that the ingredients of Section 494 IPC necessarily depend upon the subsistence of a valid first marriage and the solemnization of a second marriage in accordance with law.

11. More importantly, the material collected during investigation, even if accepted at its face value, does not disclose any specific material showing that respondent No.2 had parted with any property or money on account of any deception practised by the petitioner, which is an indispensable requirement for attracting Section 420 IPC. The allegation regarding payment of Rs.10,00,000/- by the petitioner's former husband towards settlement of the earlier matrimonial dispute is wholly insufficient to constitute cheating of respondent No.2. The prosecution material also indicates that the matrimonial

relationship between the petitioner and respondent No.2 subsequently became strained and that several proceedings were initiated by the parties against each other. Such subsequent matrimonial discord cannot, in the absence of the foundational ingredients of the offences alleged, be permitted to be converted into a criminal prosecution for cheating.

12. It is true that while exercising jurisdiction under Section 528 of the BNSS, this Court ordinarily does not undertake appreciation of evidence or conduct a mini-trial. At the same time, where the allegations, even if taken in their entirety, fail to constitute the offences alleged, continuation of the criminal proceedings would amount to abuse of the process of the Court. The Supreme Court in **State of Haryana & Ors. v. Bhajan Lal & Ors., 1992 Supp (1) SCC 335**, has categorically recognized that such proceedings can be quashed where the allegations in the FIR, even if accepted in their entirety, do not constitute an offence or where the criminal proceeding is manifestly attended with mala fide and is instituted with an ulterior motive. The same principle has subsequently been reiterated in **Vineet Kumar & Ors. v. State of Uttar Pradesh & Anr., (2017) 13 SCC 369**, wherein it has been held that the inherent jurisdiction is intended to prevent abuse of the process of law and to secure the ends of justice.

13. In the present case, considering the allegations in the FIR, the contents of the charge-sheet and the material collected during investigation as a whole, we are of the considered opinion that the essential ingredients of Sections 420 and 494 IPC are not made out against the petitioner. The continuation of the criminal proceedings, in the facts and circumstances of the case, would therefore serve no useful purpose and would amount to abuse of the process of the Court. The objection of the respondents that the

petitioner has an alternative remedy before the learned Trial Court cannot be accepted as an absolute bar to exercise of the inherent jurisdiction of this Court where the basic ingredients of the alleged offences are absent.

14. Consequently, the present petition is **allowed**. The impugned order dated 24.07.2024 passed by the learned Judicial Magistrate First Class, Raipur, directing registration of the offence against the petitioner, the consequential FIR bearing Crime No.316/2024 registered at Police Station New Rajendra Nagar, District Raipur, for offences under Sections 420 and 494 of the IPC, as well as the consequential charge-sheet and the criminal proceedings arising therefrom, including Criminal Case No.800/2025 pending before the learned trial Court, are hereby quashed qua the petitioner. All pending applications, if any, stand disposed of. No order as to costs.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Alok