

(2025) 09 RAJ CK 0661
In the Rajasthan High Court, Jaipur Bench
Case No : Criminal Appeal No. 734 Of 2023

Vinod Kumari

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 03-09-2025

Acts Referred:

Rajasthan Tenancy Act, 1955 — Section 42

Limitation Act, 1963 — Section 3(1), 5

Code of Civil Procedure, 1908 — Order 41 Rule 3(A), Order 41 Rule 11, Order 41 Rule 13

Citation : (2025) 09 RAJ CK 0661

Hon'ble Judges : Anoop Kumar Dhand, J

Bench : Single Bench

Advocate : Vikas Kabra, Vishram Prajapati

Final Decision : Disposed of

Judgement

Farjand Ali, J

1. The present criminal appeal has been instituted by the appellant-complainant, Smt. Vinod Kumari, assailing the judgment rendered by the learned appellate Court i.e. Special Judge (SC/ST Prevention of Atrocities Act Cases), Hanumangarh in on 28.03.2017 passed in Criminal Appeal No.13/2017, whereby the respondents were acquitted of the charges under Sections 494 and 109 of the Indian Penal Code, 1860. By the impugned judgment, the appellate Court set aside the judgment of conviction and order of sentence earlier imposed by the learned trial Court i.e. learned ACJM, Hanumangarh vide judgment dated 27.01.2017 passed in Criminal Original Case No.31/2001 wherein Respondent No.2, Prem Kumar, and Respondent No.7 Kamla were convicted for the offence of bigamy and sentenced to undergo two years SI alongwith fine of Rs.15,000/- each and in default to further undergo three months SI; while Respondents No.3 to 6 were found guilty of abetment and were accordingly sentenced to simple imprisonment for one year along with a fine of Rs. 15,000 each and in default to

undergo one month's SI. Out of the total compensation amount of Rs.50,000/-, a sum of Rs.30,000/- shall be directed to be paid to the complainant by way of compensation.

2. I have heard the learned counsel for the parties and have minutely gone through the material available on record.

2.1. The factual matrix of the present case originates from the marital alliance between the appellant and Respondent No.2, which was solemnized nearly fifteen years prior to the initiation of the complaint. The couple cohabited for a substantial period of time; however, according to the appellant, she was subsequently expelled from her matrimonial home nearly six years before the institution of these proceedings. In the intervening period, she was constrained to seek legal remedies by instituting criminal proceedings under Sections 498A and 406 of the Indian Penal Code, 1860, as well as maintenance proceedings under Section 125 of the Code of Criminal Procedure, 1973.

2.2. The fulcrum of the present prosecution, however, rests upon the accusation that during the continuance of this valid and subsisting marriage, Respondent No.2 purportedly entered into another matrimonial alliance with Respondent No.7. It is further alleged that Respondents No.3 to 6, despite their knowledge of the existing marital tie, not only acquiesced in but also facilitated and participated in the solemnization of the said second marriage.

2.3. Upon the lodging of the complaint, the learned Magistrate embarked upon the procedure mandated under Sections 200 and 202 of the Code of Criminal Procedure, conducting a preliminary inquiry to ascertain the veracity of the allegations. Having found sufficient grounds to proceed, process was accordingly issued against the accused persons. The matter was thereafter posted for trial, wherein the prosecution adduced the testimony of four witnesses in support of its case. Following the close of prosecution evidence, the accused were examined under Section 313 CrPC to afford them an opportunity to explain the incriminating circumstances appearing against them.

2.4. At the conclusion of the trial, the learned Trial Court arrived at the finding that the prosecution had successfully established its case beyond reasonable doubt. On such determination, Respondent No 2 and Respondent No.7 were held guilty of the offence of bigamy under Section 494 IPC, while Respondents No.3 to 6 were convicted for abetment of the said offence under Section 494 r.w. 109 IPC. The learned Trial Court accordingly imposed sentences commensurate with the gravity of the offences as proved.

2.5. The prosecution sought to fortify its case by contending that advance information regarding the purported second marriage of Respondent No.2 with Respondent No.7 had been conveyed to the complainant party by Jagdish and Shankarlal. Significantly, however, neither of these two alleged informants were produced as a witness during the course of trial, thereby depriving the prosecution of potentially material testimony.

2.6. Further infirmities surface in the depositions of the prosecution witnesses themselves. The accounts regarding the manner of travel to the supposed place of marriage are glaringly inconsistent and mutually destructive. The appellant deposed that she journeyed to the venue by passenger bus. P.W.2 Joruram, on the other hand, claimed to have travelled in a jeep to Gogamedi, notwithstanding that the prosecution's case was that the marriage was solemnized at Ramgadh. P.W.3 Radheshyam asserted that he travelled by train, whereas P.W.4 Arjun Ram deposed that he and Radheshyam travelled together to Gogamedi by train—a place geographically distinct from Ramgadh. These discrepancies are not trivial; rather, they strike at the very root of the prosecution story, undermining the credibility of the witnesses and eroding the substratum of the case.

3. It is a settled proposition of law that to establish the offence under Section 494 IPC, the prosecution must incontrovertibly prove two indispensable ingredients: first, the existence of a valid and subsisting marriage between the complainant and the accused at the relevant time; and second, the performance of another marriage by the accused with all essential ceremonies and customary rites recognized under personal law, thereby rendering the said marriage legally valid. It is equally well-established that vague allegations of cohabitation, or assertions of the parties living together as husband and wife, fall far short of the statutory requirement under Section 494 IPC.

3.1. Measured against this rigorous standard, the prosecution's case is found gravely wanting. Not only is there an absolute dearth of evidence to prove the solemnization of the alleged second marriage with the requisite ceremonies, but there is also no cogent proof of subsequent cohabitation between Respondent No.2 and Respondent No.7 as husband and wife. The testimonies of the four prosecution witnesses are riddled with contradictions, bereft of corroboration either from independent witnesses or documentary material, and wholly unreliable. The inconsistencies relating to the very place of marriage (Ramgadh and Gogamedi), the time of occurrence, and the mode of travel render the evidence inherently improbable and incapable of sustaining a conviction.

3.2. The cardinal principle of criminal jurisprudence dictates that the burden of proof lies exclusively upon the prosecution, which must establish guilt beyond all reasonable doubt. Suspicion, however grave, can never be a substitute for proof. In the present case, the complainant's claim of having witnessed the alleged marriage is palpably an afterthought, unsupported by her earlier statements and uncorroborated by credible evidence.

3.3. Judicial precedent reinforces this conclusion. In *Bhaurao Shankar Lokhande v. State of Maharashtra* (AIR 1965 SC 1564), the Supreme Court categorically held that unless the second marriage is shown to have been performed with proper ceremonies and due form, conviction under Section 494 IPC cannot be sustained. Similarly, in *Kanwal Ram v. Himachal Pradesh Administration* (AIR 1966 SC 614), it was held that mere admissions or vague allegations are insufficient; the prosecution must discharge its burden through concrete proof.

The principle was further elucidated in *Priya Bala Ghosh v. Suresh Chandra Ghosh* (AIR 1971 SC 1153), where it was underscored that the performance of essential ceremonies such as *saptapadi* is indispensable, and mere cohabitation or social recognition as husband and wife cannot substitute lawful solemnization. This doctrine was reiterated in *Lingari Obulamma v. L. Venkata Reddy* ((1979) 2 SCC 134). Applying these binding authorities to the present factual matrix, it is abundantly clear that the prosecution has signally failed to establish that Respondent No.2 and Respondent No.7 underwent a valid marriage ceremony in accordance with law. Neither documentary evidence nor credible oral testimony substantiates the charge. The contradictions in the prosecution's case are fatal and demolish its very foundation.

4. On a meticulous reappraisal of the evidence, the learned Appellate Court rightly concluded that the prosecution had failed to prove its case beyond reasonable doubt. Its reasoning is sound, well-founded, and firmly rooted in settled principles of law. The complainant's belated claim of being an eyewitness to the ceremony is untenable and devoid of probative value. The appellate court's findings are plausible, free from perversity, and warrant no interference.

5. In light of the foregoing discussion and guided by the authoritative pronouncements of Hon'ble the Supreme Court, this Court is persuaded to affirm the view of the appellate court. The prosecution has abjectly failed to discharge its burden of proof with respect to the commission of offences under Sections 494 and 109 IPC. Consequently, the judgment of acquittal rendered by the appellate court stands affirmed. The present appeal, being devoid of merit, is accordingly dismissed, and the record shall be transmitted back to the court below forthwith.