

Court No. - 75

Case :- APPLICATION U/S 482 No. - 38746 of 2024

Applicant :- Maharaj Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Bhanu Prakash Verma

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Bhanu Prakash Verma, learned counsel for applicants, Sri Raj Bahadur Verma, learned A.G.A for the State and perused the record.

2. The instant application under Section 482 Cr.P.C. has been filed for quashing the entire criminal proceeding pending in the court of Additional Chief Judicial Magistrate, Court No. 3, Bareilly relating to Case No. 398/2024, under Sections 498-A, 506 IPC, Crime No. 517/2023, P.S.- Hafizganj, District- Bareilly.

3. The brief facts giving rise to the present controversy is that opposite party no. 2 has lodged the FIR against the applicant with allegation that she is wife of the applicant and after the marriage, she was harassed for demanding a dowry by the applicant. After investigation, police has submitted a charge sheet, which is under challenged in the present case.

4. Learned counsel for the applicant submitted that the alleged marriage of the applicant as well as opposite party no. 2 was solemnized in Arya Samaj, which is not a valid marriage as per the judgment of the Division Bench of this Court in the case of **Ashish Morya Vs. Anamika Dhiman in First Appeal No. 830/2022**. It is further submitted that in the aforesaid judgment of the Division Bench, this Court after relying upon the Judgment of Apex Court in the case of **Seema Vs. Ashwini Kumar, (2006) 2 SCC 578** observed that the registration of marriage itself cannot be a proof of valid marriage per se and would not be the determinative factor regarding the

validity of a marriage, yet it has a great evidentiary value. In the above judgment of the Division Bench it is further observed that the marriage certificate issued by the Arya Samaj has no statutory force. The counsel for the applicant also submitted that actually no marriage at all was performed in Arya Samaj. The marriage certificate issued by Arya Samaj is forged and concocted, therefore the impugned proceeding itself needs to be quashed.

5. Per contra, learned A.G.A. vehemently opposed the prayer and submitted that from the perusal of the statement of opposite party no. 2 as well as her witness, (Purohit) who had performed the marriage, there is sufficient evidence on record that marriage was performed as per Hindu Customs and Rites. Merely, because the marriage has been performed in Arya Samaj Mandir will not make it invalid. It is further submitted that the issue raised by the applicant being a question of fact, cannot be considered at this stage for quashing the impugned proceeding in exercise of power under Section 482 Cr.P.C.

6. After hearing learned counsel for the applicant and learned A.G.A., the sole question is whether the marriage performed in Arya Samaj Mandir would be valid. As per the Hindu Marriage Act, 1955, the marriage of two Hindus, who fulfill the conditions of Sections 5 of the Hindu Marriage Act would be deemed to be complete and binding on following the procedure mentioned in Section 7 of the Hindu Marriage Act. As per Section 7 of the Hindu Marriage Act, a basic condition for valid marriage is that the marriage should be solemnized as per the customary rites and ceremonies of either party. It is further mentioned that if the customary rites and ceremonies of either party also include Saptapadi then on completing the same, it would become complete and binding. Section 7 of the Hindu Marriage Act is being quoted here-under:-

"7. Ceremonies for a Hindu marriage.-(1) A Hindu marriage may be solemnised in accordance with the customary rites and ceremonies of either party thereto.

(2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred

fire), the marriage becomes complete and binding when the seventh step is taken."

7. Therefore, it is clear from Section 7 of the Hindu Marriage Act, that customary rites and ceremonies may be solemnized at any place in a temple, house or open place. No specific place has been mentioned in the Hindu Marriage Act for performing the marriage except for the condition that it should be as per Hindu customary rites and ceremonies. There is a provision for the registration of Hindu marriage in Section 8 of the Hindu Marriage Act. The State Government in exercise of its power under Section 8 of the Hindu Marriage Act, also framed rules Uttar Pradesh Hindu Marriage Registration Rules 1973. Rule 4 of U.P. Hindu Marriage Registration Rules 1973 provides that any Hindu party may apply for registration of his marriage, and particulars marriage shall be entertained the Hindu marriage registered kept for the purpose of in the office of Registrar. However, no proforma of a certificate of registration has been provided under Rules 1973, but the only provision is providing the receipt for receiving the application form for registration of marriage.

8. The Apex Court in the case of **Seema Vs. Ashwini Kumar, (2006) 2 SCC 578** directed to all the State Governments that marriage of all persons who are citizens of India should be compulsorily registrable irrespective of their religion and in pursuance of the direction of the Apex Court in the case of **Seema Vs. Ashwini Kumar (supra)** U.P. Registration of Marriage Rules 2017 were framed by the Governor of U.P. in exercise of his power under Article 154 r.w.s. 162 of the Constitution of India. As per the Marriage Registration Rules 2017, registration of marriage has been made compulsory irrespective of the religion of the parties to the marriage, and there is also a provision for issuing a marriage registration certificate. The above marriage certificate facilitates *prima facie* proof of factum of marriage. However, it is subject to the condition that the marriage registration certificate should be obtained after performing a valid marriage in accordance with the law. Therefore if the marriage between two Hindus

was not performed in accordance with the procedure mentioned in section-7 of the Hindu Marriage Act, even then, the marriage registration certificate issued under the Rules of 2017 will not be a substantive proof of marriage.

9. From the above analysis, it is clear that only the certificate issued under the Hindu Marriage Registration Rules 1973 or U.P. Hindu Marriage Registration Rules 2017 will have a statutory validity regarding *prima facie* proof of marriage and any other certificate issued by any institution will not have any evidentiary value regarding *prima facie* validity of marriage. The issue of the validity of marriage under the Hindu Marriage Act 1955 and the issuance of marriage certificates by any society or institution was considered in the case of ***Dolly Rani Vs. Manish Kumar Chanchal, (2025) 2 SCC 587*** wherein the Apex Court observed if the marriage is not performed as per the hindu customs and rites mentioned in Section 7 of the Hindu Marriage Act and the certificate issued under Section 8 of the Hindu Marriage Act will also have no validity regarding proof of marriage. Paragraph Nos. 17, 21 & 22 of ***Dolly Rani (Supra)*** are being quoted as under:-

"17. Where a Hindu marriage is not performed in accordance with the applicable rites or ceremonies such as saptapadi when included, the marriage will not be construed as a Hindu marriage. In other words, for a valid marriage under the Act, the requisite ceremonies have to be performed and there must be proof of performance of the said ceremony when an issue/controversy arise. Unless the parties have undergone such ceremony, there would be no Hindu marriage according to Section 7 of the Act and a mere issuance of a certificate by an entity in the absence of the requisite ceremonies having been performed, would neither confirm any marital status to the parties nor establish a marriage under the Hindu Law.

21. Under Section 8 of the Act, it is open for two Hindus married under the provisions of the Act to have their marriage registered provided they fulfil the conditions laid down therein regarding performance of requisite ceremonies. It is only when the marriage is solemnised in accordance with Section 7, there can be a marriage registered under Section 8. The State Governments have the power to make rules relating to the registration of marriages between two Hindus solemnised by way of requisite ceremonies. The advantage of registration is that it facilitates proof of factum of marriage in a disputed case.

22. But if there has been no marriage in accordance with Section 7, the registration would not confer legitimacy to the marriage. We find that the registration of Hindu marriages under the said provision is only to facilitate the proof of a Hindu marriage but for that, there has to be a Hindu marriage in accordance with Section 7 of the Act inasmuch as there must be a marriage ceremony which has taken place between the parties in accordance with the said

provision. Although the parties may have complied with the requisite conditions for a valid Hindu marriage as per Section 5 of the Act in the absence of there being a "Hindu marriage" in accordance with Section 7 of the Act i.e. solemnisation of such a marriage, there would be no Hindu marriage in the eye of the law."

10. So far, the judgment of **Ashish Morya (supra)** relied upon by learned counsel for the applicant regarding the issuance of a marriage certificate by Arya Samaj is concerned in that case, it is observed that the marriage certificate issued by the Arya Samaj *per se* is not a valid certificate but the court did not observe that if the marriage was performed as per Hindu Customs and Rites on the premises of Arya Samaj even that marriage will be invalid. On the other hand Hon'ble Division Bench clearly observed that it is admitted fact that no Saptapadi was performed and for that reason marriage was invalid. Paragraph Nos. 12 and 13 of **Ashish Morya Vs. Anamika Dhiman (supra)** are being quoted as under:

"12. Thus, from the aforementioned judgment of the Hon'ble Supreme Court, it is evident that though the registration itself cannot be proof of valid marriage *per se*, and would not be the determinative factor regarding validity of a marriage, yet it has as great evidentiary value. The plaintiff-appellant has neither led any evidence nor filed any certificate of marriage as proof of marriage under Section 8 of the Act, 1955 read with the Uttar Pradesh Hindu Marriage Registration Rules, 1973 or the Uttar Pradesh Registration of Marriage Rules, 2017. Learned counsel for the plaintiff-appellant has also completely failed to place before us any statutory provisions enabling the Arya Samaj to issue a marriage certificate. Thus, we have no difficulty to hold that Marriage Certificate issued by Arya Samaj has no statutory force.

13. Section 5 of the Act, 1955 provides for conditions for a Hindu Marriage. Section 7 of the Act, 1955 provides for ceremonies of a Hindu marriage that a Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto and that where such rites and ceremonies include the Saptapadi i.e. the taking of seven steps by the bridegroom and the bride jointly before the sacred fire, the marriage becomes complete and binding when the seventh step is taken. Section 11 of the Act, 1955 provides for void marriages. It is admitted case of the plaintiff-appellant that the rites and ceremonies of Saptapadi had not taken place in the alleged marriage of the plaintiff with the defendant on 29.6.2021. It is also relevant to mention here that the defendant respondent has made serious allegation and filed an application under Order VII Rule 22, C.P.C. in the above Suit No. 269 of 2022 that the plaintiff-appellant stolen her photographs from whatsapp and facebook and deceitfully got her signature on some papers alluring her for providing employment. The defendant-respondent has also made serious allegation of rape etc. against the plaintiff-appellant and lodged FIR No. 475 of 2021 under Sections 384, 328, 506, 376, 427, 504 IPC, P.S.- Sadar Bazar in which chargesheet has also been filed by the police. Thus, in the absence of a valid marriage, marriage certificate of Arya Samaj is not proof of a valid marriage of the plaintiff-appellant and the defendant-respondent."

11. The Apex Court in the case of **Seema Vs. Ashwini Kumar (supra)** has

also observed that even if the certificate of marriage was issued under Uttar Pradesh Hindu Marriage Registration Rules, 1973 (here-in-after referred to as 'the Act 1973') then this certificate itself may be *prima facie* proof of the marriage, but cannot be a determinative factor for marriage. Therefore, even if the registration certificate has been issued under the Act 1973 even that itself is not proof of valid marriage in dispute. Para No. 15 of **Seema Vs. Ashwini Kumar (supra)** is being quoted as under:-

"15. As is evident from narration of facts, though most of the States have framed rules regarding registration of marriages, registration of marriage is not compulsory in several States. If the record of marriage is kept, to a large extent, the dispute concerning solemnisation of marriages between two persons is avoided. As rightly contended by the National Commission, in most cases non-registration of marriages affects the women to a great measure. If the marriage is registered it also provides evidence of the marriage having taken place and would provide a rebuttable presumption of the marriage having taken place. Though, the registration itself cannot be a proof of valid marriage per se, and would not be the determinative factor regarding validity of a marriage, yet it has a great evidentiary value in the matters of custody of children, right of children born from the wedlock of the two persons whose marriage is registered and the age of parties to the marriage. That being so, it would be in the interest of the society if marriages are made compulsorily registrable. The legislative intent in enacting Section 8 of the Hindu Act is apparent from the use of the expression "for the purpose of facilitating the proof of Hindu marriages."

12. Hindu religion, which is also known as Sanatan Dharma (meaning "Eternal Dharma") is the oldest religion in the world. The traditions of Hinduism have rooted in the Indian Subcontinent, getting back to pre historic time, including Indus Valley Civilization. Hinduism has always been a dynamic and evolving tradition, absorbing and integrating local beliefs and practices from different regions of India. This has resulted in various of Hindu traditions and practices approaching different regions.

13. Hindu religion is always open to reform, and for that reason a number of reformers came and started reformation in the Hindu religion, which, in the course of time has also been accepted. Arya Samaj is also a mission founded by great Sant and reformer Swami Dayanand Saraswati on April 10, 1875 in Bombay. It was a monotheistic Hindu reform movement which believes in one God and opposes cast system based upon birth and insisted on looking back to the Vedas, which are source of all true knowledge.

14. Hindu marriage rituals involve various Mantras, often from Vedas, to invoke blessings and establish a union. Key Mantras, including those from Rigveda, particularly "Hymns-85" which contains verses related to the bride and groom joining together and other Mantras invoking deities like Soma, Gandharva and Agni for strength, beauty and youth. Specific Mantras are also recited during rituals like Panigrahanam ("taking of the Bride's Hand"), Mangalya, Dharanam (attaching the sacred thread) and Saptapadi (taking seven steps around the fire).

15. Hindu marriages encompass a broad range of practices across different regions and communities, with some incorporating Vedic rituals. It can also include regional customs and traditions. The core of both is the sacred union of two individuals, but the Vedic marriage particularly emphasises on ancient rituals and sacred traditions. Vedic marriage is considered as the most traditional form of Hindu marriage. Vedic marriage rooted in the Vedas, is specific type of Hindu wedding characterized by special rituals, and Mantras, often conducted in Sanskrit. In Vedic marriage, rituals of Kanyadan, Panigrahan and Saptapadi are performed often with the Hymn of Vedas.

16. Every Arya Samaj is having Arya Samaj Mandir where instead of having statues of different God and Goddess, typically featuring photographs related to marriage ceremonies, portraits of Arya Samaj founders and other great saints and also representation of the "Om" symbol where the marriage are conducted. In Arya Samaj Mandir apart from marriage other religious service and community events are also organised.

17. In view of the above facts it is clear that in Arya Samaj Mandir, marriage is conducted as per the vedic procedure, which includes Hindu customs and rites like Kanyadan, Panigrahan, Saptapadi and chanting of Mantras while applying vermilion. Therefore, this court has no hesitation to hold that any marriage solemnized in Arya Samaj

Mandir as per the Vedic procedure is valid marriage as it fulfills the requirements of Section-7 of the Hindu Marriage Act. Though certificate issued by Arya Samaj may not have a statutory force of *prima facie* validity of marriage. But the certificate issued by Arya Samaj regarding performance of marriage is not a waste paper, it can be proved by the Purohit (who performed the marriage) as per the provisions of Bharatiya Sakshya Adhiniyam, 2023 during the trial of the case.

18. From the above analysis it is clear where the marriage between two Hindus (Male and Female) is performed in accordance with the applicable rites or ceremonies of Hinduism then such marriage will be valid even if the same is performed in Arya Samaj Mandir, in any temple, house or at any open place, as the place is not relevant for performing marriage as per section 7 of the Hindu Marriage Act. It is Hindu customs and rites which is relevant for the valid marriage.

19. Coming back to the case in hand, it is clear from the statement of first informant as well as Arya Samaj Purohit, who solemnized the marriage of applicant no. 1 and opposite party no. 2 that the marriage of the applicant no. 1 and opposite party no. 2 was performed in Radha Rani Mandir of Arya Samaj as per the Hindu customs and rites, therefore *prima facie* same is sufficient to presume that marriage between the parties is valid despite the fact parties did not register their marriage as per the Rules 1973 or Marriage Registration Rules 2017. Because non registration of marriage will not make a valid marriage as invalid. Therefore, contention of learned counsel for the applicant that the alleged marriage of the applicant no. 1 and opposite party no. 2 performed in Arya Samaj is invalid is misconceived and also being disputed question of fact cannot be considered at this stage of quashing the proceedings in exercise of power under Section 482Cr.P.C./ 528 BNSS.

20. From the perusal of record, it appears that opposite party no. 2 in her

statement under Section 161 Cr.P.C. made specific allegation of committing cruelty by the applicant and the Apex Court in the case of ***Aluri Venkata Ramana Vs. Aluri Thirupathi Rao and others in Slp (Criminal) No. 9243/2024*** has observed that to attract the liability under Section 498A I.P.C. demand of dowry is not necessary, merely subjecting the wife to cruelty is sufficient to attract the ingredients to Section 498 A IPC. Paragraph No. 17 of this case is being quoted here-in-under:-

"Therefore, upon careful examination of the relevant provisions of Section 498A IPC, the precedents cited, and the factual matrix of the case, it is apparent that the High Court's decision to quash the criminal proceedings against Accused Nos. 1 and 2 was flawed. Section 498A IPC recognizes two distinct forms of cruelty: one involving physical or mental harm in clause (a) and the other involving harassment linked to unlawful demands for property or valuable security in clause (b). These two provisions are to be read disjunctively, meaning that the presence of a dowry demand is not a prerequisite for establishing cruelty under the Section. The allegations made by the Appellant, which detail instances of physical abuse and harassment, fall within the scope of "cruelty" as defined under clause (a), of Section 498A IPC. The absence of an explicit dowry demand does not negate the applicability of the provisions where acts of physical violence and mental distress have been demonstrated. The core of the offence under Section 498 A IPC lies in the act of cruelty and does not purely revolve around the demand for dowry. Therefore, the High Court erred in quashing all criminal proceedings against Accused Nos. 1 and 2 and the trial ought to have been allowed to be carried out."

21. Therefore, this Court does not find any illegality in the impugned proceeding, present application is **dismissed** accordingly.

Order Date :- 8.4.2025

Sharad