



2026:DHC:1162



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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***Judgment Reserved on: 09.02.2026***  
***Judgment pronounced on: 12.02.2026***

+ CRL.A. 845/2017

SMT BHAGWAN DEVI & ANR

.....Appellants

Through: None.

versus

STATE

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the State with SI Karamveer, P.S. Sultanpuri, Delhi.

Mr. Himanshu Anand Gupta, Advocate (DSLSA) with Ms. Mansi Yadav, Mr. Sidharth Barua, Mr. Shekhar Anand Gupta, Ms. Navneet Kaur and Ms. Shivani Rampal, Advocates.

Ms.Vrinda Bhandari, Advocate (DHCLSC) with Ms. Pragya B., Advocate for victim

+ CRL.A. 884/2017

VIKRAMJEET

.....Appellant

Through: Ms. Sapna Chauhan, Advocate (Amicus Curiae)

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the State with SI Karamveer, P.S. Sultanpuri, Delhi.

Mr. Himanshu Anand Gupta,



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Advocate (DSLISA) with Ms. Mansi Yadav, Mr. Sidharth Barua, Mr. Shekhar Anand Gupta, Ms. Navneet Kaur and Ms. Shivani Rampal, Advocates.

Ms.Vrinda Bhandari, Advocate (DHCLSC) with Ms. Pragya B., Advocate for victim

+ CRL.A. 7/2018  
MANOJ

.....Appellant

Through: None.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for the State with SI Karamveer, P.S. Sultanpuri, Delhi.

Mr. Himanshu Anand Gupta, Advocate (DSLISA) with Ms. Mansi Yadav, Mr. Sidharth Barua, Mr. Shekhar Anand Gupta, Ms. Navneet Kaur and Ms. Shivani Rampal, Advocates.

Ms. Vrinda Bhandari, Advocate (DHCLSC) with Ms. Pragya B., Advocate for victim

**CORAM:**  
**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**



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1. In these appeals filed under 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C.), the appellants/accused persons, 4 in number, in SC No. 100 of 2015 on the file of the Additional Sessions Judge, Special Fast Track Court, North-West, Rohini, Delhi, assail the judgment and order on sentence dated 12.07.2017. *Vide* the impugned judgment and order on sentence, Accused no. 1 (A1) has been convicted and sentenced for the offences punishable under Sections 494, 495, 496 and 376 read with Section 120B of the Indian Penal Code, 1860 (the IPC). Accused no. 2, 3 and 4 (A2, A3 and A4) have been convicted and sentenced for the offences punishable under Section 120B IPC read with Section 376 IPC.

2. The prosecution case is that in the year 2002, A1 enticed PW1, a minor girl aged 14 years, out of the lawful guardianship of her parents and took her away, and thus committed the offence of kidnapping. Pursuant to the same, Crime No. 47/2002, Sultan Puri Police Station, under Section 363 IPC was



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registered at the instance of PW4, the father of PW1. While so, on 22.11.2006, A1 married PW1, making her believe that he was a bachelor, despite the fact that he was already married. On 13.05.2007, A1 established physical relation with PW1, for which all arrangements like renting room, were made by A2 to A4. On 14.05.2007, A1 and A4, on the pretext of the illness of PW1's father (PW4), left her at her parental home, at which time, A1 disclosed to her that he was already married and that it was in order to save himself from the earlier case of kidnapping, the marriage with PW1 had been solemnised. Thus, as per the chargesheet/final report dated 07.06.2007, the accused persons are alleged to have committed the offences punishable under Sections 494, 495, 496 and 376 read with Section 120B IPC.

3. Based on Exhibit PW1/A FIS of PW1, crime no.919/2007 Sultan Puri Police Station, that is, Exhibit PW3/A FIR, was registered by PW3, Head Constable. PW13, Sub-Inspector, conducted investigation into the crime and on



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completion of the same, submitted the chargesheet/final report dated 07.06.2007 before the trial court, alleging the commission of the offences punishable under the aforementioned Sections.

4. When the accused persons were produced before the trial court, all the copies of the prosecution records were furnished to them as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court as per order dated 04.10.2010, framed a Charge for the offences punishable under Sections 494, 495, 496 and 376 read with Section 120B IPC, which was read over and explained to the accused persons, to which they pleaded not guilty.

5. On behalf of the prosecution, PWs.1 to 13 were examined and Exhibits PW1/A-C, PW1/DA-DB, PW1/D1-D8, PW3/A-B, PW4/A, PW5/A, PW6/A, PW7/A, PW9/A, PW10/A, PW10/C, PW12/A, PW13/A-H and Mark PW4/PX were marked in support of the case.

6. After the close of the prosecution evidence, the accused persons were examined under Section 313(1)(b) Cr.P.C. with



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respect to the incriminating circumstances appearing against them in the evidence of the prosecution. All the accused persons denied the said circumstances and maintained their innocence. A1 denied that he had kidnapped PW1 in the year 2002 or that he had performed any marriage with her. He denied having taken PW1 to *Arya Samaj Mandir* or having signed any affidavit or photographs in connection with the marriage. He further denied that PW1 was taken to his parental house or that she resided with him in any rented accommodation or that he had established physical relations with her. He stated that the father of PW1 had taken money from him and, when the proposal for marriage was not accepted by his family members, he was falsely implicated in the present case.

6.1. A2, father of A1, denied that PW1 ever visited his house or that he or his wife had accepted PW1 as the wife of A1. He denied that he or A3 had requested PW1 to reside with A1 in any rented accommodation or that he had any knowledge of any marriage or cohabitation between A1 and PW1.



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6.2. A3, mother of A1, denied all the allegations attributed to her. She denied that PW1 was brought to her house or that she had requested PW1 to live with A1 in any rented accommodation. She further denied having any knowledge of any marriage or physical relationship between PW1 and A1.

6.3. A4, friend of A1 denied that he had any role in the alleged offences. He denied that PW1 was brought to his house or that he had arranged or facilitated any rented accommodation for PW1 and A1 or that he had left PW1 at her parental home.

7. After questioning the accused persons under Section 313(1)(b) Cr.P.C, compliance of Section 232 Cr.P.C was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C is seen made by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3)KHC 89 : 2009 SCC**



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**OnLine Ker 2888**). Here, the accused persons have no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him.

8. DWs 1 to 3 were examined on behalf of the accused persons and Exhibits DW2/A and Mark DA/X were marked in support of the defence case.

9. On consideration of the oral and documentary evidence and after hearing both sides, the trial court *vide* the impugned judgment and order on sentence dated 12.07.2017, held A1 guilty of the offence punishable under Sections 494, 495, 496 and 376 read with Section 120B IPC; A2, A3 and A4 of the offence punishable under Section 376IPC read with Section 120BIPC. Accordingly, A1 has been sentenced to rigorous imprisonment for a period of 5 years each as well as fine of ₹25,000/- each, in default of payment of fine, to simple imprisonment for a period of 3 months each for the offences punishable under Sections 494, 495 and 496 IPC as well as to rigorous imprisonment for a period of 7



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years as well as fine of ₹50,000/-, in default of payment of fine, to simple imprisonment for a period of 6 months for the offence punishable under Section 376 IPC read with Section 120B IPC. A2, A3 and A4 have been sentenced to rigorous imprisonment for a period of 7 years as well as fine of ₹25,000/-, in default of payment of fine, to simple imprisonment for a period of 3 months for the offence punishable under Section 376 IPC read with Section 120B IPC. The sentences have been directed to run concurrently. Aggrieved, the accused persons have preferred these appeals.

10. When the appeals were taken up for hearing, there was no representation for A1, A2 and A3. The learned Additional Public Prosecutor submitted that A3, the mother of A1 and appellant no.1 in CRL.A. 845/2017, is no more and that the death has been verified. As the sentence passed by the trial court is a composite sentence of substantive imprisonment and fine, on the death of A3, only the substantive sentence of imprisonment will



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abate and not the sentence of fine as contemplated under Section 394(2) Cr.P.C. However, the learned prosecutor draws my attention to the order dated 28.08.2025, which read thus:

- “1. Learned counsel appearing for the appellants that appellant no.1 Smt. Bhagwani Devi in **Crl.Appeal No.845/2017** has since expired, and in this regard he refers to the order dated 25.01.2023 wherein the same has been recorded and the said fact has been verified by the IO and thus the appeal qua appellant Smt. Bhagwani Devi stands abated.*
- 2. In view of the above, let the amended memo of parties be filed in **Crl.Appeal No.845/2017** within a week. ....”*

As the appeals are of the year 2018, this Court was not inclined to adjourn the case. Hence, relying on the decision of the Apex Court in **Bani Singh & Ors. v. State of U.P., (1996) 4 SCC 720**, this Court is proceeding to consider the connected appeals filed by A1 and A2 on merits after going through the entire materials on record. Heard the learned counsel for A4.

11. In the appeal memorandum filed by A1, it is alleged that the trial court erred in holding A1 guilty despite the prosecution having failed to prove the marriage alleged to have



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been solemnized on 22.11.2006 or that any deceit was practiced upon PW1. The alleged *Arya Samaj* marriage has not been proved in accordance with law and that the evidence on record does not establish that A1 induced PW1 by concealing his marital status. It is further alleged that the conviction under Sections 494, 495, 496 and 376 IPC is unsustainable in the absence of proof of a valid marriage, deception, or lack of consent.

11.1. The prosecution case suffers from grave and material contradictions, particularly between the testimony of PW1 and PW4, her father. The first complaint of PW4, i.e., Exhibit PW-4/A itself demonstrates that PW1 was already aware of the marital status of A1, thereby demolishing the foundation of the prosecution case. There are serious inconsistencies regarding the dates, manner, and circumstances of the alleged abandonment and disclosure, rendering the testimony of the prosecution witnesses unreliable and unsafe for sustaining a conviction.



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11.2. The trial court failed to appreciate that no evidence had been led to establish any criminal conspiracy under Section 120B IPC, either against A1 or the other accused. The conviction is based on conjectures and surmises, without any proof of meeting of minds or overt acts. The defence evidence, including the testimony regarding the panchayat meeting held on 13.05.2007, was not properly considered, and undue weight was given to the uncorroborated version of PW1. On these grounds, it is alleged that the conviction of A1 is liable to be set aside.

12. In the appeal memorandum filed by A2, it is alleged that the trial court gravely erred in convicting him for the offence punishable under Section 120B read with Section 376 IPC in the complete absence of any evidence establishing conspiracy, instigation, or active participation on his part. The appellant is the father of A1 and that there is neither oral nor documentary evidence to show any meeting of minds or overt act attributable to



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him in relation to the alleged sexual offence. The conviction rests purely on presumption and is unsustainable in law.

12.1. Even as per the prosecution case and the testimony of PW1, the only allegation against A2 is that here requested PW1 to reside with A1 in a rented accommodation instead of living in the parental house. Such an allegation, even if taken at face value, does not constitute abetment or conspiracy of the offence punishable under Section 376 IPC. The trial court acquitted A2 of the charges under Sections 494, 495 and 496 IPC, thereby acknowledging the absence of intention or knowledge on his part, which equally negates any allegation of conspiracy.

13. It was submitted by the learned counsel for A4 that the trial court gravely erred in convicting A4 in the absence of any material to establish conspiracy or participation on his part. It was contended that as per the prosecution case itself, the alleged marriage between PW1 and A1 took place on 22.11.2006, after which PW1 returned to her parental home. No evidence, oral or



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documentary, has been adduced to show any meeting of minds or overt act on the part of A4 in relation to the alleged offences. The conviction of A4 with the aid of Section 120B IPC was, therefore, submitted to be unsustainable.

13.1. It was further contended that the trial court failed to appreciate the material contradictions between the testimony of PW1 and her father (PW-4). Particular reliance was placed on the complaint dated 14.05.2007 (Exhibit PW-4/A), wherein PW-4 stated that till 13.05.2007 PW1 was residing with him and that on the night of 13.05.2007 she left the house on the asking of A1 and his father and was thereafter taken to Sultan Puri Police Station, from where A1 took her along with him. It was contended that the said version is wholly inconsistent with the prosecution story relating to the alleged incident of abandonment and does not attribute any role to A4.

13.2. The learned counsel lastly submitted that there is a serious inconsistency regarding the alleged disclosure by A1 of his



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prior marriage. While PW-1 stated that such disclosure was made on 14.05.2007, PW-4 stated that the disclosure was made on 15.05.2007. Despite this, Exhibit PW-4/A complaint was admittedly lodged on 14.05.2007, i.e., prior to the alleged date of knowledge as per PW-4. It was submitted that this contradiction strikes at the root of the prosecution case and clearly establishes that the appellant/A4 has been falsely implicated.

14. On the other hand, the learned counsel for the victim submitted that PW1 has been consistent with regard to the identity of A4. It was argued that both in the complaint as well as in her testimony before the trial court, PW1 has consistently named A4, and there is no variation or ambiguity in that regard.

15. The learned prosecutor supported the said submission and contended that during his examination under Section 313 Cr.P.C., A4 did not offer any explanation to the incriminating circumstances appearing against him, except stating that he was a friend of A1. It was argued that it was incumbent upon A4, while



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answering the questions under Section 313 Cr.P.C., to state that he had no knowledge of the marital status of A1 or that he was unaware that A1 was already married. The absence of such an explanation, according to the learned APP, is a circumstance which goes against A4.

16. Heard both sides and perused the records.

17. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the appellants/accused persons by the trial court are sustainable or not.

18. I shall briefly refer to the evidence relied on by the prosecution in support of the case. The gist of the case of PW1 in Ext. PW1/A FIS, is as follows:- In the month of January 2002, A1 had enticed and misled PW1 and taken her away, in relation to which PW4, her father, had lodged an FIR alleging commission of offence punishable under Section 363 IPC at Sultan Puri Police Station, and criminal proceedings arising therefrom were pending



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before the competent court. In the said incident, after about a week, A1 had brought her back to her parental home and thereafter met her repeatedly, telling her that she should marry him as it had become known to everyone that she had gone away with him, assuring her that he was ready to marry her but insisting that she should withdraw the pending criminal case against him. On 22.11.2006, A1 took her to a temple and married her by representing that he was unmarried, which representation she believed to be true. Thereafter, on 13.05.2007, A1 took her from her parental house, at which time A2 had informed her that a room had been arranged for them at Aman Vihar. A1, A2, A3, and A4 then together took her to a room situated at AI-125, Aman Vihar, Delhi, and left her there with A1. A1 established physical relations with her. On the next day, A1 and A4 took her back to her parental home at Rohini on the false pretext that PW4 was ill, after which A1 disclosed that he was already married and further told her that he had married her only to save himself from the criminal case



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pending against him. PW1 has further stated that had she been aware of the said fact, she would neither have married A1 nor consented to any physical relationship with him, and further that A1 to A4 had acted in furtherance of a criminal conspiracy to deceive her into marrying A1 in order to enable A1 to escape legal consequences. PW1 further stated that A1, despite being already married, had deliberately concealed the said fact, married her by deception, and established physical relations with her without her free and informed consent, and that her consent had been obtained by fraud and misrepresentation. It is also stated that while she was staying in the room at Aman Vihar, A1 had dishonestly taken away the gold chain she was wearing, remarking, “What will you do with this?”, and that the same had not been returned to her till date. She accordingly prayed that strict legal action be taken against A1, A2, A3, and A4 in accordance with law.

19. In the testimony of PW1 before the trial court, she has reiterated her case as stated in the FIS. PW1 further deposed that



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she tried to lodge a complaint on 15.05.2007, but the police officials, disputing the jurisdiction and on one pretext or the other, did not lodge the complaint and ultimately lodged the complaint on 07.06.2007. At the time of performing the marriage in *Arya Samaj Mandir* on 22.11.2006, she was made to sign an affidavit mentioning that she was unmarried at that time. She stood by her case, in the cross examination also.

20.PW2, deposed that he knew A2 who was residing in C-9, Sultan Puri for the last 10-12 years. In the year 2009, A1 and his wife, whose name he does not know, came to him and on their request he arranged a room for rent in the house of one Jaswant Singh. The house in which a room was taken for A1 and his wife was bearing No. A1/136, Aman Vihar belonged to Jaswant Singh and the same was vacant. PW2 deposed that he does not know anything more about the case and that A1 and his wife lived only for about 15 days in that rented room and thereafter had left the room and gone back to their house. At this juncture, the prosecutor



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sought the permission of the trial court to “cross-examine” PW2 on the ground that he was resiling from his previous statement made to the police under Section 161 Cr.P.C. Permission was granted by the trial court and on further examination by the prosecutor, PW2 denied having stated to the police that A1 and his wife had come to his house along with A2 and A3 asking for a room on rent. He denied having stated that he had the key of the house bearing No. A1/125 Aman Vihar which belonged to his friend and that he arranged it on rent for A2. He denied having stated to the police that on the next day he came to know that the girl who came along with the son of A2 was not the latter’s wife or that some quarrel had taken place between them or that he asked A1 to vacate the premises or that on the next day A1 and his wife vacated the said house. PW2, in his cross-examination admitted that in the year 2009, A1, his wife and their son lived in the rented accommodation.



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21. PW3, Head Constable, deposed that on 07.06.2007, while working as Duty Officer, he had registered FIR No. 919/07.

22. PW4, the father of PW1, deposed that in January 2002, his daughter was kidnapped by A1, pursuant to which, Crime No. 47/02, PS Sultan Puri was registered for the offence punishable under Section 363 IPC. The said case was pending. Even after the registration of the said crime, A1 continued to meet PW1, his daughter, and in the year 2006, A1 married PW1 at the *Arya Samaj Mandir*, Bhukamp Pura clandestinely. After the marriage, though PW1 insisted on A1 taking her along with him, the latter kept postponing on the ground that as the earlier case was pending trial, he would take PW1 after the said case was over.

22.1. PW4 further deposed that on 13.05.2007, A1, A2, A3 and A4 made a phone call to PW1 and told her that they were standing at S-Block Mangolpuri, PW1 went to the said place and met the accused persons. Thereafter, PW1 boarded a car and left the place with A1. He immediately went to the police station,



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Sultan Puri for reporting the matter. But the police officials did not lodge his complaint on that day. Thereafter, on the next day i.e. on 14.05.2007, he again went to the Sultan Puri Police Station and gave a written complaint addressed to the SHO, S.P. Badli Police Station, But still the police refused to lodge the report. On the next day, he went to the office of the Deputy Commissioner of Police and gave a copy of the complaint *vide* Diary No. 5728. The copy of the complaint has been marked as Exhibit PW4/A, showing receipt by the SHO, Sultan Puri Police Station and the Diary No. given by the office of the DCP. PW4 further deposed that on 15.05.2007 in the evening, A1 left PW1 in front of the Jail Complex, Rohini and so his daughter returned home. At the time of leaving PW1, A1 told her that he had married PW1 in order to save himself from the earlier case of kidnapping. He also told her that he was already married. On the same day, he went to police station along with PW1 for lodging the report but the police officials refused to lodge his report. He went to the police station



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many times from 15.05.2007 and in between he also visited the office of DCP. At the intervention by the office of the DCP, his report was ultimately lodged on 07.06.2007 and the statement of PW1 was recorded. PW4 further deposed that his daughter told him that A1 had raped her. In 2002, PW1 was aged about 13 years only. According to PW4, his daughter was born in the year 1986, but he could not recall the exact date and month.

22.2. PW4, in the cross-examination, denied that he was related to A1. He deposed that he was unaware that the shop of A1 was situated at C-2 Market, Sultan Puri, Delhi. He denied visiting the shop of A1. He denied having taken any loans from A1. He denied meeting the parents of A1 with the proposal of A1's marriage with his daughter. He denied the suggestion that when the parents of A1 declined his proposal, he had falsely implicated A1 in the present case. According to PW4, A2 was a Head Constable in Haryana Police, and so was quite influential in the area. PW4 deposed that he was unaware as to whether on



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19.01.2003 the marriage of A1 had taken place. On 13.05.2007, when his daughter went along with A1, he was unaware that the latter was a married man.

23.PW5, Constable, Police Station, Sultan Puri, deposed that on 07.06.2007, she along with PW13 took PW1 to SGM Hospital for her medical examination. After medical examination of PW1, the doctor concerned had given two sealed *pullandas* and a sample seal sealed with the seal of Sanjay Gandhi Memorial Hospital, Govt. of NCT Delhi (SGMH) and the same was handed over to the investigation officer (IO) who took the same *vide* Exhibit PW5/A memo.

24.PW6, Dr. Manoj Dhingra, SGMH, MOIC, Mangolpuri, Delhi, deposed that he is acquainted with the handwriting and signatures of Dr. Sameer Pandit and Dr. Renu Gupta as he had seen them signing and writing in the course of the discharge of their official duties. Dr. Sameer Pandit and Dr. Renu Gupta had since left the hospital and their present whereabouts were not



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known. According to him, Exhibit PW6/A is the MLC of PW1 who was admitted in the hospital on 07.06.2007 at about 7:30 PM and was examined by Dr. Sameer Pandit, who referred her to the gynae department, where she was examined by Dr. Renu Gupta.

25. PW8, deposed that he was doing the work of *panditai* at Ramroop Gali Shiv Mandir, Sabzi Mandi Ghanta Ghar, Delhi-07 and that he had solemnized the marriage of PW1 and A1 on 22.11.2006. He was called by one advocate Lal to solemnize the marriage of PW1 and A1 at *Arya Samaj Mandir*. He does not maintain any record of the marriages solemnized by him. According to PW8, Advocate Lal is no more. He identified A1 in the box. In the cross-examination, PW8 deposed that he cannot recall as to who had performed the *Kanyadan* ceremony.

26. PW9, Sr. Scientific Officer (Biology), FSL, Rohini, Delhi, deposed that on 21.05.2008, two sealed parcels were received in the office and the same were marked to him for



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examination. He examined the exhibits biologically and gave his report, i.e., Exhibit PW9/A FSL.

27. PW13, the Investigating Officer, deposed that on 07.10.2007, he had visited the house of Jai Singh at Sultan Puri, who stated that his daughter Kamlesh had married A1 in the year 2003 and handed over photographs of the said marriage, which have been marked as Exhibit P1 to Exhibit P8.

28. On behalf of the defence, DW1 to DW3 were examined. DW1, deposed that on 13.05.2007 a meeting was organized at Maharishi Balmiki Mandir, A-Block, Sultan Puri. In the said meeting PW4 and PW1 as well as the family of Jai Singh were called. According to DW1, PW1 was interfering in the lives of A1 and his wife Kamlesh. In the meeting, they tried to convince PW4 to solemnize the marriage of his daughter, with a suitable groom. The settlement that was arrived at in the panchayat was agreed to by PW4, who assured the panchayat that in future, neither he, nor his daughter would trouble A1 and family. A



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photocopy of the settlement/agreement has been marked as Exhibit DW1/DX.

28.1. DW1, in his cross-examination, deposed that he does not know the father of A1. He does not know who all are the persons involved in the present crime. He does not know any of the accused persons in this case. He was called by the committee of the *Mandir* to attend the Panchayat. He only knows one person, a member of the Committee of the *Mandir*, namely, Krishan Kumar. The said Krishan Kumar is not brother of Kamlesh (the first wife of A1). He denied the suggestion that Kamlesh's brother was his friend and therefore he was deposing falsely in favour of the accused. He denied knowledge of any aspect of the preset case or the marriage of A1 to PW1.

29. DW2, Head constable, S.P. Badli, Police Station, produced the record of DD No. 50B dated 14.05.2007 of the said station, which is the complaint made by PW4. A copy of the same was marked as Exhibit DW2/A.



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30.DW3deposed that on 13.05.2007, a meeting was organized at Maharishi Valmiki Mandir, A-Block, Sultan Puri. In the said meeting PW1 and PW4 as well as Kamlesh, wife of A1, and A2 had takenpart.DW3 deposed that he was unaware of the relationship between A1 and PW1, but as A1 was already married to Kamlesh, they convincedPW4 that he should marry off PW1, his daughter to someone else and that they should not interfere in the matrimonial life of A1 and Kamlesh. He admitted his signature in Exhibit DW1/DX Panchayat Nama.

30.1. DW3, in his cross-examination, denied being related to either A1 or Kamlesh. He admitted that PW4 had not signed Exhibit DW1/DX Panchayat Nama. DW3 stated that he is unaware of whether A1 on 22.11.2006 had married PW1 initially in Tis Hazari Court and thereafter, on the same day solemnized the marriage with PW1. He deposed that he was unaware as to whether A1 had made any representation to PW1 that he was unmarried. He does not know if A1 had informed PW1 to return to



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her house after the marriage and that he would slowly obtain the approval of his father for the marriage and accept her as his wife. He does not know if A1 had kidnapped PW1 in the year 2002, when the latter was 13 years of age or whether a crime was registered regarding the same. DW3 identified PW1 and A1 in Exhibit PW1/D1 to Exhibit PW1/D6 photographs. DW3 deposed that he does not know anything about this case except about the decision of the Panchayat.

31. Before adverting to the rival submissions, it is necessary to examine whether the prosecution has succeeded in establishing the essential ingredients of the offences for which the appellants stand convicted. To bring home an offence under Section 494 IPC, the prosecution is required to prove: (i) a valid subsisting first marriage; and (ii) a second marriage performed during the lifetime of the spouse of the first marriage. Section 495 IPC further requires proof that such second marriage was contracted by concealment of the former marriage from the person



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with whom the subsequent marriage was contracted. Section 496 IPC is attracted where the marriage is gone through fraudulently without any intention of a lawful marriage. In the present case, the subsistence of the first marriage of A1 with Kamlesh stands proved through the testimony of PW13, who collected photographs and recorded the statement of Jai Singh, the father of the first wife, during investigation. The defence has not seriously disputed the factum of the first marriage, and even the defence witnesses DW1 and DW3 have consistently deposed that A1 was already married to Kamlesh prior to the alleged marriage with PW1.

32. As regards the second marriage dated 22.11.2006, PW1 has categorically deposed that A1 took her to Arya Samaj Mandir and went through a marriage ceremony after representing himself to be unmarried. Her testimony finds corroboration by PW8, the priest, who solemnized the marriage and identified A1 in court. The affidavits executed by PW1 and A1 (Exhibit PW1/B and Exhibit PW1/C), as well as the marriage photographs (Exhibit



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PW1/D1–D7), further lend assurance to the prosecution version. The absence of proof of customary rites such as *kanyadan* does not take the “marriage” out of the ambit of Sections 494, 495 and 496 IPC, particularly when the accused himself projected the ceremony as a valid marriage to induce PW1. The materials on record clearly establish that A1 knowingly concealed his prior subsisting marriage from PW1 and induced her to go through the ceremony on the false representation that he was unmarried. The subsequent conduct of A1 in asking PW1 to return to her parental home and later disclosing that the marriage was a sham undertaken only to avoid the pending criminal case, unequivocally demonstrates that the ceremony was gone through fraudulently and without intention of a lawful marital relationship.

33. At this stage, the testimony of PW8, the priest who solemnized the marriage, assumes significance. PW8 has categorically deposed that he solemnized the marriage between PW1 and A1 on 22.11.2006 at the Arya Samaj Mandir and has



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identified A1 in court. Merely because PW8 did not maintain a formal register of marriages or could not specify details such as the performance of *kanyadan*, his testimony cannot be discarded. PW8 had no discernible motive to falsely implicate A1, and his evidence lends independent corroboration to the version of PW1 that a marriage ceremony was in fact performed.

34. The gravamen of the charge under Section 376 IPC is that PW1's consent to sexual intercourse was vitiated by fraud and deception. The consistent testimony of PW1 establishes that she consented to cohabitation solely on the belief that she was the legally wedded wife of A1. It has come on record that such belief was induced by deliberate concealment of the subsisting marriage of A1. The law is well settled that consent obtained on a misconception of fact, particularly as to the marital status of the accused, does not constitute valid consent in law. (See **Anurag Soni Vs. State of Chhattisgarh, AIR 2019 SC 1857**). PW1 has consistently stated that had she known about the prior marriage of



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A1, she would neither have gone through the marriage ceremony nor consented to physical relations. Her testimony has remained unshaken in cross-examination on this material aspect. The medical and forensic evidence, though not determinative by itself, supports the prosecution case regarding sexual intercourse. The offence under Section 376 IPC thus stands proved against A1.

35. As regards criminal conspiracy under Section 120B IPC, direct evidence of conspiracy is seldom available and the same is required to be inferred from the conduct of the parties and the surrounding circumstances. The evidence of PW1 shows that A2 and A3, the parents of A1, actively participated in facilitating the cohabitation by insisting that PW1 reside with A1 in a rented accommodation instead of the parental home, despite being aware of the subsisting first marriage. A4 accompanied A1 in taking PW1 to the rented premises and in later leaving her at her parental home. These acts are not isolated or innocuous; they form part of a concerted design to enable A1 to exploit PW1 under the guise of a



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false marriage. The collective conduct of A2, A3 and A4 before, during and after the incident of 13.05.2007 clearly demonstrates a meeting of minds with A1 to deceive PW1 and facilitate the commission of the offence. The trial court has, therefore, rightly invoked Section 120B IPC and held A2, A3 and A4 liable for the offence under Section 376 IPC with the aid of conspiracy.

36. The principal contention of the appellants that the alleged marriage has not been proved in accordance with law cannot be sustained. For the purpose of offences under Sections 494, 495 and 496 IPC, what is material is the fact that the accused went through a marriage ceremony and held it out as a valid marriage to deceive the victim. The prosecution evidence, particularly that of PW1 and PW8, sufficiently establishes this fact. The alleged contradictions between the testimonies of PW1 and PW4 are minor and pertain to peripheral details such as exact dates of disclosure and lodging of complaints. Such discrepancies are natural in the testimony of witnesses recounting traumatic



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events after a lapse of time and do not go to the root of the prosecution case. On the core issue of deception, false marriage, and subsequent sexual exploitation, the testimonies of PW1 and PW4 are consistent and mutually corroborative.

37. The defence reliance on the alleged panchayat meeting and Exhibit DW1/DX does not advance the case of the appellants. None of the defence witnesses has personal knowledge of the marriage between PW1 and A1 or the events that transpired at the rented accommodation. Significantly, Exhibit DW1/DX does not bear the signature of PW4, and even the defence witnesses conceded ignorance of the material facts. The trial court has rightly held that such evidence does not discredit the prosecution case. The contention that no conspiracy has been proved against A2, A3 and A4 is equally untenable.

38. Insofar as A4 is concerned, the argument that there is "no evidence" against him does not accord with the record. Criminal conspiracy is rarely established by direct evidence and is



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required to be inferred from the conduct of the accused and the chain of circumstances. PW1 has specifically deposed that A4 accompanied A1 when she was taken to the rented accommodation at Aman Vihar and that A4 was also present when she was later left at her parental home. These acts are not neutral or accidental; they are integral links in the sequence of events by which PW1 was deceitfully taken away, made to cohabit with A1 under the false belief of marriage, and thereafter abandoned. The presence and participation of A4 at these critical junctures, coupled with his admitted association with A1, clearly establish his role in facilitating the offence. The contention that there is no evidence against A4 ignores the settled principle that conspiracy can be inferred from coordinated conduct before, during, and after the commission of the offence. The trial court has, therefore, rightly rejected the plea of A4 and held him liable with the aid of Section 120B IPC. The role attributed to him is not based on mere relationship with A1 but on specific acts facilitating the offence.



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The cumulative effect of their conduct unmistakably points towards a shared intention and design.

39. In the light of overall re-appreciation of the evidence, this Court finds no infirmity, perversity or illegality in the findings recorded by the trial court. The prosecution has succeeded in proving beyond reasonable doubt the offences punishable under Sections 494, 495, 496 and 376 read with Section 120B IPC against A1 and the offence punishable under Section 376 read with Section 120B IPC against A2, A3 and A4.

40. The findings recorded by the trial court are based on proper appreciation of evidence and do not suffer from any perversity or illegality warranting interference by this Court.

41. In the result, the appeal *sans* merit, is dismissed. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA  
(JUDGE)**

**FEBRUARY 12, 2026/RN**