



2026:AHC-LKO:19381

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 5287 of 2024

Shailendra Kumar Srivastava And Anr.

.....Applicant(s)

Versus

The State Of U.P. Thru. Prin. Secy. Civil Secrty.
Home Deptt. Lko. And Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ram Das Gupta, Indu Prakash Singh
Counsel for Opposite Party(s) : G.A., Anshuman Srivastava

Court No. - 16

HON'BLE BRIJ RAJ SINGH, J.

1. Heard learned counsel for the petitioners as also Sri Anshuman Srivastava, learned counsel for the opposite party No. 2 and the learned Add. Government Advocate for the State.

2. The petitioners have filed the present application with the following main prayer:

"... this Hon'ble Court may kindly be pleased to allow the petition U/S 482 Cr.P.C. and quash the proceedings of the case pending in the Court of Judicial Magistrate IIIrd, Ayodhya as Parivad No. 110/2022 under section 323 IPC in Adarsh Kumar Srivastava v/s Shailendra Kumar Srivastava and others as well as quash the summoning order dated 27.03.2024 issued by the court of Judicial Magistrate IIIrd, Ayodhya in the instant case summoning the petitioners as accused."

3. It has been submitted by learned counsel for the petitioners that the application under Section 156(3) Cr.P.C. filed by the opposite party No. 2 has been treated as complaint case. It has also been submitted that the opposite party No.2 while submitting the application dated 17.08.2021 under Section 156(3), Cr.P.C. before the Chief Judicial Magistrate, Faizabad, concealed the relevant fact that he had already filed F.I.R. No. 0038 on 21.01.2021 in Police Station Ashiana, Lucknow, for the same incident which occurred on 09.01.1991 at the petitioners' residence in Lucknow. The chargesheet was filed under Section 323, 504 and 506, I.P.C. on 18.02.2022, which was challenged before this court and this court was pleased to stay the proceeding vide order dated 19.09.2022.

4. It has been submitted by learned counsel for the petitioners that the

daughter of the petitioner, Srimati Chhavi Srivastava, who was married to the opposite party No. 2, had filed an FIR against the opposite party No. 2 and others, which was registered as Case Crime No. 22 of 2021 on 12/01/2021 under sections 498A, 506 IPC and 3/4 of the Dowry Prohibition Act at police station Kalyanpur, district Kanpur Nagar. As such, the FIR and application under section 156(3) Cr.P.C. filed by the opposite party No. 2, are nothing but a counter-blast to the FIR filed by the daughter of the petitioners against him. Conciliation was carried out between the petitioners' daughter Smt. Chhavi Srivastava, and opposite party No. 2, Adarsh Kumar Srivastava, at the Kanpur Nagar Judgeship Mediation center, wherein agreement was reached between them. Report dated 18/08/2023 pertaining to conciliation has been submitted. Agreement was filed for mutual divorce petition in the court under section 13B of the Hindu Marriage Act. It was also agreed that both parties would not file any fresh case against each other, and all the old cases filed by both would be withdrawn.

5. It is further stated that the suit under section 13B has been decided by order dated 11/02/2025 vide which marriage between the parties has been dissolved on the basis of compromise. A photocopy of the order dated 11/02/2025 has been placed before the court by the learned counsel for the petitioners, which is taken on record.

6. It has also been submitted by the learned counsel for the petitioners that after going through the order dated 11/02/2025, it is clear that the husband and wife have parted their ways and are living separately. Permanent alimony of Rs.5 lakhs has also been given by the husband. It is submitted by the learned counsel for the petitioners that the present proceedings may not be allowed to continue for the reason that it will be a futile exercise to continue with the proceedings once the husband and wife have parted ways and are living separately through process of the court. Therefore, the entire proceeding is liable to be quashed.

7. On the other hand, learned counsel for the opposite party No. 2, Sri Anshuman Srivastava, has opposed the prayer.

8. After going through the record, I find that the husband and wife have already parted ways on the basis of compromise; an order has been passed by the competent court under section 13B of the Hindu Marriage Act on 11/02/2025; the wife has also accepted permanent alimony of Rs.5 lakhs; the present proceeding is also arising out of the reason that the wife had lodged an FIR for harassment and dowry demand against her in-laws, and out of retaliation, the application under section 156(3) CrPC was moved. Once the wife and husband are living separately permanently, alimony has been accepted, it is evident that out of retaliation, the present application under section 156(3) Cr.P.C. was filed just to settle a personal score, the case of the petitioners is also covered by the judgment of the Hon'ble Supreme Court in the case of Bhajan Lal, 1992 Supp (1) SCC

335 (para 102), hence it will be a futile exercise to conduct the trial, therefore, application is **allowed. Case Parivad No. 110/2022, Adarsh Kumar Srivastava v/s Shailendra Kumar Srivastava and others, pending in the Court of Judicial Magistrate IIIrd, Ayodhya under section 323 IPC alongwith the summoning order dated 27.03.2024 and all the consequential proceedings of the said case, are hereby quashed in respect of the petitioners herein.**

(Brij Raj Singh,J.)

March 17, 2026

A.Nigam