
(1991) 12 MP CK 0009
In the Madhya Pradesh High Court
Case No : Criminal R. No. 410 of 1987

Babu Lal	Vs	APPELLANT
Jamnabai and Another		RESPONDENT

Date of Decision : 02-12-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125
Penal Code, 1860 (IPC) — Section 494

Citation : (1992) 1 DMC 556

Hon'ble Judges : P.N.S. Chouhan, J

Bench : Single Bench

Advocate : S.S. Jha, for the Appellant; None, for the Respondent

Judgement

P.N.S. Chauhan, J.—The applicant was married with the respondent in the year 1976. After sometime on account of ill treatment Jamnabai started living with his brother. Without applicant's marriage with the respondent being annulled he contracted second marriage in June, 1978 with Munni Bai On these facts the respondent initiated applicant's prosecution on charge of bigamy u/s 494 of the Indian Penal Code, which ended in applicant's conviction and sentence for one year's rigorous imprisonment, which in appeal No. 62 of 1986 of the Court of Sessions Judge. Seoni, was reduced to six months.

2. In this revision this finding is challenged on the ground that there is absolutely no evidence to prove the alleged second marriage as per the Hindu rites. Reliance has been placed on Lingari Obulamma Vs. L. Venkata Reddy and Others, It is not possible to agree with this submission. in view of the candid statement of Kesri Prasad (P.W.1.) who claims to have presided over the second marriage as priest. He also states that the said marriage was duly solemnised with Saptpadi as per Hindu rites and he recited the Mantras. There is nothing in the cross examination of this witness to falsify his above assertion. Then there is Ex. P/I which is the reply filed by the applicant in a proceeding u/s 125 of the Code of Criminal Procedure wherein he has admitted the factum of second marriage. The

justification that he has given in Ex. P/I for this conduct is not material for the disposal of this revision. The positive evidence of Kesri Prasad (P.W. 1) finds support from Ex. P/I and the impugned conviction cannot be faulted on the ground of absolute want of incriminating evidence.

3. It was then argued that the applicant be spared the jail term after so many years and since he has already suffered about a month in jail, the same may be held to be sufficient to satisfy the conscience of law. There is little doubt that applicant's marriage with the respondent has broken for good. In this back ground if she is awarded adequate monetary compensation, the same will meet the ends of justice.

4. In result, the revision is partly allowed. Applicant's conviction u/s 494 of the I.P.C. is hereby upheld but the jail term awarded is modified to that already undergone with a fine of Rs. 12,000/- (Rs. Twelve Thousand) out of which Rs. 10,000/- on realisation be paid to the respondent as compensation. In default of payment of fine the applicant will suffer rigorous imprisonment for six months.