
(1988) 10 P&H CK 0062
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1 of 1988

Balhar Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 05-10-1988

Acts Referred:

Citation : (1988) 10 P&H CK 0062

Hon'ble Judges : Harbans Singh Rai, J

Advocate : G.S. Punia, T.S. Sangha, Advocates for appearing Parties

Judgement

H.S. Rai, J.

1. Petitioner Balhar Singh was convicted by Judicial Magistrate Ist Class, Fatehgarh Sahib under section 494 of Indian Penal Code and was sentenced to two years rigorous imprisonment and a fine of Rs. 500/ in default of payment of fine rigorous imprisonment for a further period of. six months. His appeal was dismissed by Mr. M. S. Lobana, Additional Sessions Judge, Patiala vide his order dated December 15, 1987. Feeling aggrieved, he has filed this revision.

2. Gurdeep Kaur daughter of Gurdev Singh was married to Balhar Singh nine years back. A daughter named Paramjit Kaur was born out of the wedlock. Relations between Gurdeep Kaur and Balhar Singh became strained and there was litigation under section 125 of Criminal Procedure Code. Gurdeep Kaur filed a suit in 1982, against Balhar Singh for permanent injunction restraining him from marrying second time as she was apprehending that he was intending to marry. Petitioner made a statement in the court in that suit admitting his marriage with Gurdeep Kaur and stated that he has no intention to marry second time. According to the allegations in complaint Balhar Singh, performed second marriage with Dalwinder Kaur in spite of the fact that he was earlier married. Father of Gurdeep Kaur filed a complaint under section 494 of Indian Penal Code against Balhar Singh, petitioner, his father Mehar Singh, his mother Ajmer Kaur and his second wife Dalwinder Kaur. Shri Hukam Chand, Judicial Magistrate Ist Class, Fatehgarh Sahib convicted all the four vide his order dated 3rd July, 1987.

Mr. M.S. Lobana, Additional Sessions Judge, Patiala, in appeal, acquitted Mehar Singh, Ajmer Kaur and Dalwinder Kaur but maintained, conviction of Balhar Singh petitioner under Section 494 of Indian Penal Code. Feeling aggrieved,, he has filed this revision.

3. I have heard learned counsel for the parties and applied my mind to the facts of the case.

4. Mr. G.S. Punia, learned counsel for the petitioner has raised number of points in challenging the conviction of the petitioner. He has submitted that the complaint by Gurdev Singh was not competent as there is nothing to show that Gurdev Singh father of Gurdeep Kaur filed the complaint on behalf of his daughter. This submission is without force. It is obvious that the complaint by Gurdev Singh. is on behalf of Gurdeep Kaur that is why no objection was taken either in the trial Court or in the first appellate Court. The facts. of the case suggest that Gurdev Singh has filed a complaint on behalf of Gurdeep Kaur.

5. Mr. Punia has further submitted that there is no sufficient evidence to establish that petitioner has performed second marriage with Dalwinder Kaur. Two Courts have considered the prosecution evidence and have accepted the prosecution case that the marriage of Balhar Singh with Dalwinder Kaur is established beyond reasonable doubt. I do not find any infirmity or illegality in the judgement of the Courts below. Nothing has been pointed out which may persuade me to reverse the finding of guilt given by the Courts, below I uphold the conviction of the petitioner under section 494 of Indian Penal Code.

6 Mr. Punia has further prayed that the sentence awarded is highly excessive and the petitioner has been denied the benefit of Probation of Offenders Act without any reasoning. I find some force in this argument. Both Pie Courts have not considered why the petitioner, who is a first offender, cannot be released on probation. Having regard to his age, antecedents and the circumstances in which the offence was committed, I am of the view that it would be in the interest of justice, to release the petitioner on probation of good conduct. Therefore, it is ordered that he be released on probation on his entering into a bond in the sum of Rs. 5000/ with one surety in the like amount for a period of two years, to the satisfaction of trial Court undertaking to keep peace and be of good behaviour and to appear and receive sentence as and when called upon to do so, during the said period. It is further directed that he shall pay Rs. 5000/ as compensation to Gurdeep Kaur daughter of Gurdev Singh complainant. This bond of good conduct and the compensation of Rs. 5,000/ shall be furnished within three months from today, failing which this revision shall stand dismissed and the sentence awarded to the petitioner by lower Courts shall be maintained. The complainant be informed of the deposit of the compensation.