

Narotam Singh

Vs

State of Punjab and Another

Criminal Appeal No. 14 of 1978

(V. R. Krishna Iyer, Jaswant Singh JJ)

11.01.1978

JUDGMENT

KRISHNA IYER, J. –

1. The law of crimes perverts itself on occasions into the crime of law if narrow legalism overwhelms social justice. This criticism applies to the field of penology as well, and so the finer, more perceptive and sociologically relevant approach to punishment, when crime has been proved, is to take a holistic, realistic and humanistic size-up action as to promote rehabilitation without offending community conscience. Taking this stance, we responded to counsel's submission in the above appeal which relates to a conviction of the appellant for bigamy, and the result has been the composition of the offence and prayer for permission of the Court in that behalf which we accord.

2. We may give a thumbnail sketch of the facts to appreciate why we have resorted to the course we have adopted and brought about a happy resolution of an embittered marital discord which otherwise may explode into more dangerous sequelae. The complainant, Amrit Kaur, was married to the accused, and although their married life could have been sweet, a dowry issue soured the relationship with the usual mother-in-law-daughter-in-law breezes and blasts. To make a long story of torment short, the wife was sent back to her brother and restoration of the conjugal home did never occur. Meanwhile, the first accused picked up intimacy with another woman, Damanjeet Kaur (accused 3) which ripened into a sort of wedlock. Thereupon, the complainant charged the accused, namely the husband, the mother-in-law, the second wife, and others with offence under Section 494 read with Section 109, IPC. The defence that there was no second marriage, and therefore no bigamy, was disbelieved and the trial Court held the second marriage proved. The husband, the appellant, was found guilty and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 500, while the other accused were acquitted. The High Court summarily dismissed the appeal and we are satisfied that the conviction was correctly rendered.

3. Discrepancies do not necessarily demolish testimony; delay does not necessarily spell untruth and tortured technicalities do not necessarily upset conviction when the Court has had a perspicacious, sensitive and correctly oriented view of the evidence and probabilities to reach the conclusion it did. Proof of guilt is sustained despite little infirmities, tossing peccadilloes and peripheral probative shortfalls. The "sacred cows" of shadowy doubts and marginal mistakes, processual or other, cannot deter the Court from punishing crime where it has been sensibly and substantially brought home. By these guidelines, the conviction of the appellant must stand, although we do not detain ourselves to discuss the details of the evidence.

4. Even so, what should be the sentence in the present case ? The appellant is a business man and

one consequence of his two years' imprisonment is that he wrecks his business which, whatever, else happens, will land his family, including one or both the wives, in financial misfortune. Secondly, punitive incarceration may not restore the harmony between the complainant and the appellant; if at all it may estrange them into worse hostility and never restore them back to consortium. Thirdly, the reality of the situation is that the man has 'married' a second woman. The complainant derives poor comfort if left in the cold after a draconian sentence inflicted upon her husband. True, the penal law registers the public denunciation of the community on criminal misconduct and the wife, certainly, will derive some satisfaction if the husband who betrays the conjugal fidelity and ill-treats one for whom he is obliged to be kindly is punished. She has to live, which means financial resources. She has to have a future, which certainly cannot rest with a betrayer. Taking the totality of these circumstances into consideration, we felt that the best course would be to have the offence compounded for which the parties were readily willing, appreciating the pragmatism of life.

5. We incorporate the settlement as part of this judgment as an annexure. The solution reached by the compromise seems reasonable. The masculine offender pays Rs. 40,000 to the victim 'wife'. This sum will clearly take care of her future and be sufficient repatriation. We also award costs in a sum of Rs. 5000. The compensation for his sexual aberration and breaking up of the matrimonial home will instill a correctional responsibility on the man. At the same time, his acquittal, following upon the composition will hopefully save his business, and avert the hurtful jail term. The consent to divorce by the complainant will put asunder in law the marital tie which in fact has long ago sundered. Thus, the parties will be free to live in separate amity and form fresh alliances - lasting, not fleeting. This conspectus of consequences has persuaded us to grant leave to compound and do justice to the actors in the tragedy and to society generally. The triumph won after necessary travail, as in this case, has our approval and also on the said lady and the misguided man. Will this order open a better chapter for both ? The book of life often has hopeful parts in the later sober pages.

6. It is distressing that dowry or bride price should mar married felicity with feudal cruelty in India largely because the anti-dowry law sleeps on the statute book and social consciousness is not mobilised to ban effectually its vicious survival. Law, hanging limp, is a slur on the executive charged with its enforcement and the traumatic consequences are illustrated by this very case. Will the administration awake to the urgency of a campaign so that the people may become participants in the observance of social welfare legislation.

7. For final orders post the appeal three months later by which time compliance with monetary condition would have been made.

8. Order accordingly.

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