

COCP No.2187 of 2014

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP No.2187 of 2014
Date of decision:17.11.2015**

Court on its own motion

...Petitioner

Versus

Munish

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ashit Malik, Advocate,
for the respondent.

Rakesh Kumar Jain, J.

This petition is on its own motion by the Court, arising from
FAO No.M-209 of 2013, filed by one Harsha against the order of the
Additional District Judge, Karnal dated 11.04.2013, by which her marriage
with the respondent was declared a nullity on a petition filed by the
respondent under Section 12 of the Hindu Marriage Act, 1955 (hereinafter
referred to as the “Act”).

Harsha filed an application bearing CMM No.11 of 2014 for
grant of maintenance *pendente lite* and litigation expenses. In the reply to
this application, the respondent had disclosed that after the divorce was
granted to him by the learned District Judge, Karnal on 11.04.2016, he
re-married Sangeeta on 28.08.2013 and received the summons on

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01.09.2013. In view of the stand taken by the respondent Munish in his reply, the Division Bench passed the following order on 08.07.2014:-

“CMM has been filed by the appellant-wife for grant of maintenance pendente lite and litigation expenses.

In the reply filed by the respondent, it is inter alia stated that divorce was granted to him by the learned District Judge, Karnal on 11.04.2013 and he has married Sangeeta on 28.08.2013. The summons in the appeal, it is stated, were received on 01.09.2013. The appeal in fact had been filed on 29.05.2013. Therefore, the appeal was filed within the period of limitation and the second marriage solemnized by the respondent is prima facie in violation of Section 15 of the Hindu Marriage Act, 1955.

In **Jasbir Kaur v. Kuljit Singh**, 2008 (2) RCR (Civil) 929, a Division Bench of this Court considered the case where the wife filed an appeal within period of limitation but husband had no knowledge nor summons were served upon him by the Court and he solemnized his second marriage. It was held that this amounts to willful disobedience to the “other process of the Court” which is a civil contempt within the meaning of Section 2 (b) of the Contempt of Courts Act, 1971.

In the circumstances, a separate contempt motion be drawn up and the matter be placed before the Bench dealing Contempt matters as per roster. List for hearing before Contempt Bench on 19.08.2014.

List for consideration of CMM on 19.08.2014.”

Pursuant to the aforesaid order, the Registry has listed this petition before this Court in which notice was issued on 23.04.2015.

Shri Ashit Malik, Advocate, has caused appearance on 05.08.2015 after which the arguments were heard and the judgment was reserved.

As a matter of fact, counsel for the respondent did not challenge the order passed by this Court on 08.07.2014 and prayed for a

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lenient view to be taken against him.

There is no dispute that the Division Bench in the case of **Jasbir Kaur vs. Kuljit Singh**, 2008(2) RCR (Civil) 929 has held that if an appeal is filed by the wife within the period of limitation and if the husband had no knowledge nor summons were served upon him by the Court and he solemnizes his second marriage, then he would be guilty of disobedience to the “other process of the Court”, a civil contempt, within the ambit of Section 2(b) of the Contempt of Courts Act, 1971.

Thus, in view of the undisputed fact and the position of law, the present contempt petition is hereby allowed and the respondent is hereby convicted for a simple imprisonment of 2 months and is also burdened with fine of ₹2,000/-. In case of default in payment of fine, he shall further undergo simple imprisonment for a period of one month. This judgment shall, however, remain stayed for a period of one month enabling the respondent to prefer any appeal etc., if so advised.

November 17, 2015
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(**Rakesh Kumar Jain**)
Judge