

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 153 of 2006

Judgment reserved on 11-12-2018

Judgment delivered on 19.02.2019

Kali Ram S/o. Tekram Dewangan, Aged about 36 years, Caste Dewangan, R/o. Village Manendragarh, P.S. and Tahsil Manendragarh, District Sarguja (C.G.)

---- **Applicant**

Versus

1. State of Chhattisgarh.
2. Om Bai W/o. Kali Ram, Aged about 32 years, Caste Dewangan, R/o. Gandhi Mandir, Ward No. Bhatapara, P.S. and Tahsil Bhatapara, District Raipur (C.G.)

---- **Respondents**

For Applicant : Mr. H.P. Agrawal, Advocate.
For Respondent : Mr. Gary Mukhopadhyay, G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Respondent No.2 herein namely Om Bai, who has been examined as AW-1 filed a complaint case before the Judicial Magistrate First Class Balodabazar, to the effect that her husband Kali Ram (the applicant herein) used to beat her time and again and subjected her to cruelty, torture and harassment, both mentally and physically. She has also made an allegation that once the applicant had even poured kerosene on her body

and put her afire causing number of serious injuries to her requiring her hospitalization for a considerable long time. She also pleaded that on account of the aforesaid act of the applicant her body was totally disfigured. She has also put-forth in her complaint that after making her half-dead he also married one Rampyari during the subsistence of his first marriage. While filing the complaint case, the respondent No.2 had named two other persons also including Rampyari but the trial Court gave them both a clean chit of acquittal.

2. Having taken cognizance of the matter learned Magistrate found the applicant guilty of entering in the second marriage with one Rampyari and thus convicted him under Section 494 IPC and sentenced him to undergo RI for two years and pay fine of Rs. 2000/- plus default stipulation.

3. Counsel for the accused/applicant submits that the order impugned being contrary to the material available on record is liable to be set aside. He also argues that the respondent No.2 has not even proved the second marriage of the applicant with Rampyari and the witness Tikaram (PW-2) examined by her in support of her case being her brother cannot be taken as a gospel truth.

4. Counsel for the respondent/complainant supports the order impugned in its entirety being flawless.

5. Material on record including the evidence of applicant herein examined as AW-1, Milanram Dewangan (PW-3), Yashwant (PW-4) and Tikaram (PW-2), it is abundantly clear that the accused/applicant immediately after marriage started ill-treating the non-applicant No.1 and during the subsistence of first marriage he performed second marriage with Rampyari by taking seven rounds of the sacred fire, and thus committed an offence punishable under Section 494 IPC. In this view of the matter, conviction of the accused/applicant cannot be said to suffer from any legal flaw and therefore, it is hereby maintained.

6. As regards sentence, keeping in view the fact that the incident had taken place in the year 1995, that the accused/applicant has already remained in jail for a period about 5 months and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone.

7. With the above, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE