

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

**CRM-M-40482-2019
Date of Decision: August 31, 2022**

Radhey Shyam

...Petitioner

Versus

Shakuntla and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Amit Arora, Advocate,
for the petitioner.

SANJAY VASHISTH, J.

Petitioner has filed this petition, under Section 482 Cr.P.C., against the order of discharge, dated 12.07.2018, passed under Section 245 Cr.P.C., by the learned Judicial Magistrate Ist Class, Bhiwani.

As per the allegations of the complainant (husband), respondent No. 1 – Shakuntla had performed second marriage with respondent No. 2 – Kuldeep, without there being any valid divorce of the first marriage by a competent Court of law.

To prove the factum of marriage, Radhey Shyam, who is father of Ram Janam (complainant – since deceased), appeared as PW-1, and proved the date of marriage of his son with daughter of Ram Dass as 04.04.1997, at village Paposa, Tehsil Bawani-Khera, District Bhiwani. He further deposed that Shakuntla was staying in her matrimonial home from

March, 1998 to 29.11.2006. As per his deposition, due to matrimonial disputes, Shakuntla and Ram Janam separated and litigation under the provisions of Sections 9 and 13 of the Hindu Marriage Act, 1955 (as detailed in paragraph No. 9 of the order passed by learned Revisional Court), was started between them. In the cross-examination, Radhey Shyam admitted that ***“he was not present in the alleged second marriage of Shakuntla with accused No. 2”***.

Another witness Satpal, appeared as CW-2, also admitted the fact of his not being present at the spot at the time of performing of marriage between Shakuntala and accused No. 2 – Kuldeep.

Considering the aforementioned material evidence led by the complainant, learned Courts below have discharged the accused by holding that factum of performing of second marriage by Shakuntla and Kuldeep remained unproved on record, therefore, there is no material to proceed further against the accused persons.

Having heard learned counsel for the petitioner and gone through the record, I am of the considered view that learned Courts below have dealt with the evidence in detail and rightly come to the conclusion that factum of performing of second marriage between accused No. 1 and 2 remained unproved upto the stage of pre-charge evidence and there is no such material on record to proceed further against the accused persons and rightly discharged the accused persons under Section 245 Cr.P.C.

Nothing material has been pointed out by learned counsel for the petitioner to show that there is any illegality / perversity in the impugned

orders passed by learned Courts below.

This petition is devoid of merit. Accordingly, the same is hereby dismissed.

(SANJAY VASHISTH)
JUDGE

August 31, 2022

Pk Kapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**