



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

204

CWP-14270-2005

Date of Decision: 03.11.2025

SHIV KUMAR

...Petitioner

Vs.

STATE OF PUNJAB AND ORS.

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Parveen Kumar, Advocate with
Mr. Sudhir Rana, Advocate
Mr. Ankush Duhan, Advocate and
Mr. Deepak Joon, Advocate
for the petitioner

Mr. Aman Dhir, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner joined Punjab Police as Constable on 04.03.1992. He solemnized marriage in 1996. Due to matrimonial discord, parties decided to part their ways. No decree of divorce was obtained from Court of competent jurisdiction, however, they parted their ways on the basis of Panchayati divorce. Permanent alimony of Rs.1,00,000/- was paid to wife. The petitioner solemnized second marriage on 08.06.2000 with Jasbir Kaur. On account of discord, Jasbir Kaur moved a complaint before SSP, Amritsar alleging that the petitioner has cheated her. He has solemnized second marriage while first marriage is subsisting. An FIR was lodged against him. Police after completing investigation filed its report alleging commission of offence under

Sections 376, 494, 315, 452, 382 and 506 of IPC. The trial Court acquitted the petitioner and his family members. Jasbir Kaur compromised the matter and filed an affidavit before Executive Magistrate, Amritsar deposing that she has lodged FIR due to misunderstanding and she does not want to press the FIR. The respondent conducted enquiry and concluded that the petitioner has violated Rule 21 of Government Employees (Conduct) Rules, 1966. The competent authority ordered to terminate him holding that act of petitioner amounts to gravest misconduct warranting dismissal in terms of Rule 16.2 of Punjab Police Rules, 1934 (in short 'PPR'). The petitioner is claiming that there was Panchayati divorce between the parties, though, there was no decree of divorce passed by Court of competent jurisdiction, thus, act of respondent does not amount to gravest misconduct warranting dismissal under Rule 16.2 of PPR.

2. Learned counsel for the petitioner submits that Panchayati divorce is recognized by Section 29(2) of Hindu Marriage Act, 1955 (in short '1955 Act'). Case of petitioner is squarely covered by judgment of this Court in '*Jasbir Singh Vs. Inderjit Kaur*' (2003) 3 PUN LR 170. The respondent did not consider question of validity of Panchayati divorce and ordered to dismiss him from service.

3. Learned State counsel submits that petitioner placed on record Panchayati divorce, however, did not produce evidence to the effect that Panchayati divorce was recognized in his community, thus, there was no opportunity with the authorities to consider said question.

4. It is a case of dismissal from service. The petitioner solemnized second marriage under the *bona fide* belief that his first marriage stands dissolved. The authorities have not considered whether Panchayati divorce was recognized in terms of Section 29(2) of 1955 Act as well as judgments of Hon'ble Supreme Court or not; thus, this Court finds it appropriate to remand the matter back to Disciplinary Authority to reconsider case of the petitioner. The petitioner would produce evidence to the effect that Panchayati divorce is recognized in his community and it was valid divorce under Section 29(2) of 1955 Act.

5. Let the needful be done within six months from today. It is made clear that petitioner shall not be deemed to be reinstated on account of instant order. The order passed by Disciplinary Authority would determine fate of the petitioner. It is further made clear that any observation made heretofore shall not be treated as expression of opinion of this Court on merit and Disciplinary Authority would decide the matter on merit without being influenced by observations of this Court.

6. Disposed of.

7. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

November 03, 2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No