

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****COC-1359-2021 (O&M)****Reserved on : 07.11.2025****Pronounced on :27.11.2025****Judgment uploaded on : 27.11.2025**

Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: Full

Bhawna Rani

....Petitioner

VERSUS

Gurdeep Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.C. Shahpuri, Advocate for the petitioner.
Petitioner – Bhawna Rani – in person.

Mr. Saket Bhandari, Advocate for the respondent.
Respondent – Gurdeep Singh – in person.

ALKA SARIN, J.

1. Present contempt petition has been filed under Section 12 of the Contempt of Courts Act, 1971 for willful and intentional disobedience of order dated 13.08.2020 passed by a Division Bench of this Court in FAO-1935-2020.

2. The brief facts relevant to the present *lis* are that the marriage of the petitioner-wife was solemnized with the respondent-husband on 09.12.2012 according to Hindu rites and ceremonies at Bilaspur, District Yamunanagar. A female child was born out of the wedlock. The respondent-husband filed a petition under Section 13 of the Hindu Marriage Act, 1955 before the Family Court, Yamunanagar at Jagadhri. On 02.03.2020 a decree of divorce was granted by the Family Court, Yamunanagar. Aggrieved by the same, an appeal being FAO-1935-2020 was preferred by the petitioner-wife,

which was filed on 12.03.2020 as per the filing stamp of the Registry i.e. well within the period of limitation. However, thereafter, due to the situation created because of the Covid-19 Pandemic, the matter was not listed and was eventually heard on 15.06.2020 and notice was issued for 13.08.2020. The address of the respondent-husband given in the memo of parties was 'House No.41, Pooja Vihar, Industrial Area, Ambala Cantt. District Ambala' and the second address was given as 'working as Manager, Scale-2, Bank of India, Village Chhapra Kheri, District Karnal'. The address in the memo of parties was the same as had been given by the respondent-husband in the petition filed by him for divorce under Section 13 of Hindu Marriage Act, 1955. The petitioner-wife had also filed FAO-M-5170-2018 challenging the order dated 30.10.2018 passed in a petition for restitution of conjugal rights which had been dismissed. In the said petition also the address of the respondent-husband given was 'House No.41, Pooja Vihar, Industrial Area, Ambala Cantt. District Ambala' and the respondent-husband was duly served at that address. In FAO-1935-2020, on 15.06.2020 the matter was heard and admitted, and notice was issued in the application under Order XLI Rule 5 read with Section 151 of the Code of Civil Procedure, 1908 and on the application filed under Section 24 of the Hindu Marriage Act, 1955 claiming maintenance *pendente lite*. Vide order dated 13.08.2020 the operation of the impugned judgment and decree was stayed. On 16.09.2020 it was directed that in case no reply was filed by the respondent-husband, punitive costs would be imposed. However, despite orders, none had put in appearance on behalf of respondent-husband. It is only in February 2021 that presence of counsel for the respondent-husband had been marked. As per the petitioner-wife, the respondent-husband

is stated to have contracted a second marriage on 03.01.2021. Hence, the present contempt petition.

3. As noticed vide order dated 25.11.2021, a co-ordinate Bench of this Court had issued notice of motion in the present contempt petition. The respondent-husband had put in appearance through his counsel on 11.05.2023 and subsequently reply on his behalf was filed on 18.09.2024 wherein the respondent-husband has admitted that he had solemnized a second marriage with Ms. Vandana daughter of Satish Kumar resident of Karnal on 03.01.2021.

4. Vide order dated 31.10.2025 the contentions of learned counsel for the parties were noticed in detail and on request of learned counsel for the respondent-husband, an opportunity was granted to the respondent-husband to come up with a concrete proposal qua an amicable settlement between the parties. Accordingly, the matter was adjourned to 07.11.2025 and the parties were also directed to remain present in Court. On 07.11.2025 the proposal given by the respondent-husband was not acceptable to the petitioner-wife and she requested that the case be decided on merits.

5. The present contempt petition has been filed by the petitioner-wife averring therein that there has been a willful disobedience of order dated 13.08.2020 as the respondent-husband despite the appeal having been preferred within a period of limitation and despite a stay order having been passed on 13.08.2020, contracted a second marriage on 03.01.2021, deliberately and willfully disobeying the order passed by this Court.

6. Learned counsel for the petitioner-wife has relied upon a judgment of a Division Bench of this Court in the case of **Jasbir Kaur vs. Kuljit Singh [2008 (2) RCR (Civil) 929]** to contend that once the appeal has

been filed within the period of limitation, irrespective of the fact that the husband has knowledge and whether the summon has been served or not, as per Section 15 of the Hindu Marriage Act, 1955 no person can re-marry till the period of filing of an appeal has expired or the appeal having been presented has been dismissed. Learned counsel for the petitioner-wife has further contended that the Division Bench while answering the reference in the case of **Jasbir Kaur** (supra) held that the right to appeal is a substantive right granted to the losing spouse by Section 28 of the Hindu Marriage Act, 1955 and if any element of that right is defeated by an act of holder of a decree of divorce then it would constitute willful disobedience of other process of the Court. It is further the contention that once the right to file an appeal is conceded as a substantive right then reconciliation proceedings also have to be construed as a part of that right to file an appeal and in case a second marriage is contracted, chance of any reconciliation stands defeated. Learned counsel for the petitioner-wife has further relied upon judgments of this Court in the cases of **Court on its motion vs. Jagdeep Pal Singh [2019(3) RCR (Civil) 408]** and **Court on its motion vs. Munish [2016(2) RCR (Civil) 835]**.

7. *Per contra* learned counsel for the respondent-husband would contend that the respondent-husband was never served in the case and it is only when an FIR was lodged by the petitioner-wife alleging therein that he had contracted a second marriage that he became aware of the proceedings. It is further the contention that because of the fault of the Process Server, who never affected any service upon the respondent-husband, the respondent-husband cannot be held guilty of contempt. Learned counsel for the respondent-husband has relied upon the following judgments :

1. Sheetal Patil vs. Sandeep Patil and Ors. [2004 NCCGHC 20963]
2. Alipka @ Lokesh vs. Vikram Singh [2023 NCRJ-JD 32076]
3. Roshan Lal vs. Veena Rani [2023 (1) Law Herald 626]
4. Kanchan w/o Prashant Bagade vs. Prashant Manikrao Bagade [2020 (6) MhLJ 328]
5. Jasbir Kaur vs. Kuljit Singh [2008 (2) RCR (Civil) 929]
6. Kuljit Singh vs. Jasbir Kaur [SLP (C) No.17400 of 2008 decided on 15.09.2008]
7. Jasbir Kaur vs. Kuljit Singh [COCP-1180-2005 decided on 27.08.2009]
8. Jasbir Kaur vs. Kuljit Singh [SLP (Civil) No.36461 of 2009 decided on 30.08.2011]
9. Suresh and Others vs. Imran Khan and Others [1995 AIR (SCW) 3247]

8. Learned counsel for the respondent-husband has contended that the judgment passed by the Division Bench of this Court in the case of **Jasbir Kaur** (supra) was challenged before the Hon'ble Supreme Court by filing SLP (Civil) No.17400 of 2008 which was disposed off by holding that the first appeal pending before this Court against the decree passed by the Trial Court as well as contempt application be disposed off together. Learned counsel for the respondent-husband has further pointed out that eventually COCP-1180-2005 [**Jasbir Kaur vs. Kuljit Singh**] was dismissed as the appeal being FAO-M-211-2003 had been dismissed. The order dated 27.08.2009 passed in COCP-1180-2005 was further challenged before the Hon'ble Supreme Court

in SLP (Civil) No.36461 of 2009 which was dismissed as having been rendered infructuous in view of the settlement arrived at between the parties.

9. I have heard learned counsel for the parties.

10. In the present case the appeal being FAO-1935-2020 was filed by the petitioner-wife on 12.03.2020 as per the filing stamp of the Registry, which was well within the prescribed period of limitation. As per reply of the respondent-husband, he had admittedly solemnized a second marriage on 03.01.2021 i.e. after filing of the appeal by the petitioner-wife and after the operation of the impugned judgment and decree was stayed by this Court vide order dated 13.08.2020.

11. A Division Bench of this Court in the case of **Jasbir Kaur** (supra) on a reference answered two questions, which are reproduced hereinbelow :

“ 1. *Whether performance of a marriage after filing of appeal, an unlawful act in terms of Section 15 of the Hindu Marriage Act, 1955, amounts to willful disobedience to the “ other process of the Court” disclosing a civil contempt within the meaning of Section 2(b) of the Act ?*

2. *Whether the act of marriage by the respondent after the filing of the appeal interferes or obstructs the administration of justice and thereby amounts to a criminal contempt within the meaning of Section 2(c) of the Act ?”*

12. Qua question No.1, it was held as under :

“ 13. The principles governing contempt jurisdiction do not require that disobedience of the ‘ other process of the

Court' is required to be proved beyond reasonable doubt. The right of appeal is a substantive right granted to the losing spouse by Section 28 of the 1955 Act, which is presumed to be known to the holder of a decree of divorce. If any element of that right is defeated by the acts of holder of a decree of divorce then it would constitute willful disobedience of 'other process of the Court'. The fact of entering into second marriage by the holder of a decree of divorce beyond the period of limitation would not constitute a basis for him or her to argue that provisions of Section 15 of the 1955 Act alone may be attracted because Section 15 of the 1955 Act does not take into account willful disobedience of the other process of the Court, which include the right of filing an appeal. Once the right of filing appeal is conceded as a substantive right then reconciliation proceedings have to be construed as part of the right of appeal. We are of the view that the excuse of entering into second marriage after the period of limitation cannot be put forward as a valid excuse for testing the conduct of a spouse in the light of the disobedience of other process of the Court. Suppose, an appeal has been filed within the period of limitation and it is heard by the Court a week after the expiry of the period of limitation, the Court after hearing the appeal also issues an interim order restraining the holder of a decree of divorce to remarry, the process of the Court is likely to

take some time. Is it possible for the holder of a decree of divorce to argue that since he/she has married after the expiry of the period of limitation as provided under Section 28 of the 1955 Act, he/she should not be held guilty of violating the other process of the Court. The answer is obvious that such an argument cannot be raised. We are also inclined to accept the contention raised by Mr. Arun Jain, learned senior counsel for the wife-petitioner, that such an approach would be consistent with the policy of law as reflected in Section 23(2) and (3) of the 1955 Act. If the law be otherwise then a game of hide and seek would follow, which may result in defeating basic principles of law aimed at reconciliation. It is well known that a 'family' comprised of husband, wife and their children, is a unit of the society and if a 'family' is disintegrated on account of minor differences between the spouses, which could be avoided by reconciliation, then the spouses themselves would suffer. They may not be able to ever overcome the physical and mental agony which could bring them back the same world of their first marriage. The reconciliation proceedings, therefore, is one such stage where the Court could play a vital role. The significance attached to reconciliation cannot be over-emphasised. It is, however, suffice to observe that many marriages have been saved by the inference of the Courts. The role allocated to the Courts is something more than what Section 15 of the 1955

Act declares. According to Section 15 of the Act, a party to the dissolved marriage could marry again if period of filing an appeal has expired or the appeal has been dismissed. It necessarily implies that the decree holder has to make inquiries that no appeal has been filed within the period of limitation or that the appeal has been dismissed. Such a spouse cannot sit at home and wait the summons to come because service of summons may not necessarily be effected on the winning spouse within the period limitation.

14. *Once the act of entering into another marriage by successful party is unlawful within the meaning of Section 15 of the 1955 Act, it would have consequences as per the provisions of Section 11 and 17 of the 1955 Act but those proceedings has nothing to do with the proceedings to be initiated under Section 2(b) of the Act because Sections 5, 11 and 17 of the 1955 Act operate in entirely different area and do not contemplate willful disobedience of 'process of a Court' as provided by Section 2(b) of the Act. It is true that any violation of a substantive law would result into penal and other consequences and action is to be taken as per provisions of such a substantive law. But every breach of substantive law would not necessarily result into willful disobedience of 'other process of the Court'. The peculiarity in the proceedings under the 1955 Act involving role of the Court is distinct and, therefore, we*

find no merit in the argument of Mr. G.S. Bhatia, learned counsel for the husband-respondent. In support of our view we place reliance on para 16 of the judgment of Hon'ble the Supreme Court in the case of Savitri Pandey (supra), which reads thus :

"16. To appreciate such a submission some facts have to be noticed and the interest of public and society to be borne in mind. It appears that the marriage between the parties was dissolved by a decree of divorce vide the judgment and decree of the Family Court dated 8.7.1996. The respondent-husband filed appeal against the judgment and decree on 19.1.1997. As no stay was granted, the appellant solemnized the second marriage on 29.5.1997, admittedly, during the pendency of the appeal before the High Court. There is no denial of the fact that right of at least one appeal is a recognized right under all systems of civilized legal jurisprudence. If despite the pendency of the appeal, the appellant chose to solemnize the second marriage, the adventure is deemed to have been undertaken at her own risk and the ultimate consequences arising of the judgment in the appeal pending in the High Court. No person can be permitted to flout the course of justice by his or her overt and covert acts. The facts of the cases relied

upon by the learned counsel for the appellant are distinct having no proximity with the facts of the present case. In all the cases relied upon by the appellant and referred to hereinabove, the marriage between the parties was dissolved by a decree of divorce by mutual consent in terms of application under Section 13B of the Act. This Court while allowing the applications filed under Section 13B took into consideration the circumstances of each case and granted the relief on the basis of compromise. Almost in all cases the other side was duly compensated by the grant of lumpsum amount and permanent provision regarding maintenance.”

(emphasis added)

It is well settled that when the contempt alleged is with respect to willful disobedience of ‘other process of a Court’, which has been provided for the benefit of both the parties and larger public interest then it would plainly be civil contempt and there is no criminality in the disobedience of such a process.”

13. The said judgment has been followed by this Court in **CACP-24-2019 in COCP-3544-2017 [Rakesh Kumar vs. Suman]** decided on 27.05.2019 wherein while following the ratio laid down in the case of **Jasbir Kaur** (supra) it has been held that it was the duty of the appellant to make inquiries regarding filing of any appeal during the statutory period of 90 days

before contracting a second marriage and in case such a marriage is contracted after filing of an appeal, then it would amount to interference in administration of justice and, therefore, such individual is guilty of contempt. Similar view was taken by this Court in the cases of **Court on its motion vs. Munish** (supra) and **Court on its motion vs. Jagdeep Pal Singh** (supra).

14. Hon'ble Supreme Court in a recent case of **N. Rajendran vs. S. Valli [(2025) 3 SCC 801]** has held as under :

“ 42. The further argument addressed by the learned counsel for the appellant, Shri K.S. Mahadevan, that the respondent filed an appeal on 09.09.2004 and therefore it was not an appeal which was presented within the meaning of Section 15 of the Hindu Marriage Act, is without any merit at all. In fact, Section 3 of the Limitation Act uses the word “ prefers” in the context of an appeal. Section 15 no doubt uses the word “ presented” . What Section 15 intends is to place a time limit on the right of the unsuccessful party to challenge a proceeding by which the marriage has been declared dissolved. In Lata Kamat (supra), we notice that this Court has clarified that though Section 15 uses the word “ dissolved” , it has been interpreted to also apply to cases where the marriage is pronounced null and void keeping in view the interests of justice. Thus, the intention of the Legislature was to give effect to the decree for dissolution, if the unsuccessful party does not move the appellate court within time. The argument of the learned counsel for the appellant that not

only must the appellant file the appeal, or prefer the appeal or present the appeal, but he must also ensure that the appeal comes on the judicial side of the High Court is clearly without any basis. Therefore, we find that the appeal on being filed on 09.09.2004 must be treated as having been presented within the meaning of Section 15 of the Act.

43. The upshot of the discussion is that the appellant has not made out a case to overturn the findings on merits. Equally, as the appellant failed in persuading us to hold that the appeal was not filed within the period stipulated in Section 19 of the Family Courts Act or that the appeal was not presented during the period of Section 15 within time, the second marriage which is relied upon by the appellant clearly took place in contravention of mandate of Section 15 of the Hindu Marriage Act and we have no hesitation in holding that the High Court was entirely right in its findings.

15. The judgments relied upon by learned counsel for the respondent-husband in the cases of **Sheetal Patil** (supra), **Alipka @ Lokesh** (supra) and **Kanchan** (supra) are that of High Courts of Chhattisgarh, Rajasthan and Bombay, respectively. Since two Division Bench judgments of this Court have categorically held that once an appeal is filed within the period of limitation and after filing thereof contracting of a second marriage by the husband tantamounts to contravention of Section 15 of the Hindu Marriage Act, 1955, the argument of learned counsel for the respondent-husband

deserves to be rejected. Further, as noticed above, their Lordships in the case of **N. Rajendran** (supra) have also held that the bar on re-marriage under Section 15 of the Hindu Marriage Act, 1955 after divorce will apply on mere filing of an appeal.

16. Learned counsel for the respondent-husband has not been able to point out to any case law to the contrary that a marriage contracted in contravention of Section 15 of the Hindu Marriage Act, 1955 would not amount to civil contempt. The reliance made by learned counsel for respondent-husband to the judgment in the case of **Suresh** (supra) would also not come to his aid as the same does not deal with the contravention of Section 15 of the Hindu Marriage Act, 1955.

17. As discussed above, not only the appeal was filed within the prescribed period of limitation but the respondent-husband also appears to have evaded the service of notice in the appeal as he remained unserved on the same very address i.e. 'House No.41, Pooja Vihar, Industrial Area, Ambala Cantt. District Ambala', wherein he had also been served in FAO-M-5170-2018, which was the same address given by him in the divorce petition filed by him. In his reply the respondent-husband has categorically admitted that after the marriage was dissolved vide a decree of divorce dated 02.03.2020, he contracted a second marriage on 03.01.2021. The only plea taken by the respondent-husband is that he was never served and that he gained knowledge about the pendency of FAO-1935-2020 on 23.02.2021. It has further been stated that there cannot be endless time limit for the spouse not to re-marry and that the respondent-husband re-married only after the grant of decree of divorce and that the appeal pending before this Court has still not been decided. In a nutshell, in his reply the respondent-husband,

instead of tendering an unqualified apology, has tried to contest his act of solemnizing the second marriage during the pendency of the above appeal and stay having been granted therein. It is only when this fact was pointed out by this Court to learned counsel for the respondent-husband that an affidavit was filed alongwith CM-22461-CII-2025 tendering an unqualified apology. However, the apology in the present case cannot be accepted for the reason that there has been willful contravention of Section 15 of the Hindu Marriage Act, 1955. Even if the argument of learned counsel for the respondent-husband as regards the fact that respondent-husband was not served in the appeal is to be taken on its face value, he admittedly never made inquiries within the prescribed period of limitation regarding filing of the appeal.

18. In view of the law laid down by the Division Bench of this Court in the cases of **Jasbir Kaur** (supra) and **Rakesh Kumar** (supra) and keeping in view the facts and circumstances of the case as discussed above, the conduct of the respondent-husband in contracting a second marriage after filing of the appeal by the petitioner-wife within the prescribed period of limitation and a stay having been granted therein, amounts to civil contempt and accordingly he is held guilty for commission of the same. The sanctity of rule of law and the brazen breach and non-compliance of the orders passed by this Court cannot be taken lightly.

19. The respondent-husband and his counsel were also heard on the quantum of punishment in the event this Court found the respondent-husband guilty of committing contempt.

20. Learned counsel for the respondent-husband has stated that a lenient view be taken as an unconditional apology has been tendered and that the respondent-husband has a child from the second marriage.

21. The act and conduct of the respondent-husband is such that the clock cannot be put back and the damage which has ensued cannot be rectified. Virtually, the conduct of respondent-husband has rendered the appeal filed by the petitioner-wife infructuous and the petitioner-wife being remediless. The petitioner-wife and her daughter have even missed out the chance to partake in any reconciliation process.

22. Accordingly, taking into account all the facts and circumstances of the case, this Court deems it proper to impose punishment upon the respondent-husband for civil contempt under Section 12 of the Contempt of Courts Act, 1971. He is sentenced to undergo simple imprisonment for a period of three months with a fine of ₹2,000/-. The respondent-husband shall surrender before the Chief Judicial Magistrate, Yamunanagar at Jagadhri within a period of 15 days from the date of this order and he shall be sent to judicial custody to undergo the sentence as stated above. Registry is directed to supply a certified copy of this order to the respondent-husband free of costs, forthwith.

27.11.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO