

CACP No.24 of 2019

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CACP No.24 of 2019 in

COCP No.3544 of 2017

Date of Decision:-27.05.2019

Rakesh Kumar.

.....Appellant.

Versus

Suman.

.....Respondent.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present:- Mr. Ravi Sodhi, Advocate and
Mr. M.M. Pandey, Advocate for the Appellant.

JASWANT SINGH, J.

This *intra* court appeal has been preferred by the Convict-husband-Rakesh Kumar under Section 19 of the Contempt of Courts Act, 1971 against the impugned order dated 14.02.2019 passed by learned Single Bench whereby appellant has been held guilty of contempt of Court Order dated 11.02.2016 (**A-1**), passed by Division Bench of this Court.

Learned Counsel for the appellant has argued that the learned Single Bench has wrongly entertained the contempt petition filed by the respondent-wife because the same was filed much beyond the period of limitation and, therefore, the impugned order

passed by the learned Single Bench is without jurisdiction. It is further argued that the appellant was not aware about the stay granted by this Court on 11.02.2016 and, therefore, he cannot be held guilty of contempt of an order qua which he had no knowledge. Consequently, it is prayed that impugned order dated 14.02.2019 of conviction is liable to be set aside, by allowing the instant appeal.

We have heard learned Counsel for the appellant and have scrutinized the paper book with his able assistance. However, we are of the view that instant appeal is liable to be dismissed.

A perusal of the impugned order and record would show that on an application for divorce moved by appellant-husband, a decree for divorce was passed in his favour by the trial Court vide judgment dated 14.01.2016, an appeal bearing FAO No.59 of 2016 was filed which was listed for the first time on 11.02.2016 i.e. well within the period of 90 days provided for filing an appeal before this Court. While issuing notice in the appeal, operation of the impugned judgment dated 14.01.2016 was also stayed. However, despite staying the operation of the decree of divorce, appellant contracted second marriage with one Pooja.

On appreciation of these facts, we are of the view that the argument of appellant not being aware about passing of stay order dated 11.02.2016 is without any merit. The learned Single Bench has rightly rejected this argument by relying upon a Division Bench Judgment of this Court titled as "**Jasbir Kaur Vs. Kuljit Singh**" 2008(2) RCR (Civil) 929 whereby this very question has been answered against the appellant. A perusal of the judgment passed in

Jasbir Kaur's case (supra) would show that the Court had 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 second marriage and in case such marriage is contracted within 90 days, then it would amount to interference in administration of justice and, therefore, such individual is guilty of contempt.

We are in respectful agreement of said view and once we apply the aforesaid ratio laid down in *Jasbir Kaur's case*, we are unable to accept the argument raised by appellant. It is evident that appellant contracted second marriage in March, 2016, i.e. within 90 days of passing of decree of divorce and thus, had committed contempt of court. Hence, the argument regarding being unaware about the order dated 11.02.2016 is rejected.

As far as the second argument regarding limitation is concerned, we are afraid that this argument is also without any substance. It is evident that the appellant as well as Pooja (second wife) had concealed about their marriage even during investigation conducted by the Police Authorities which was initiated somewhere in March-April, 2016 on an apprehension raised by respondent-wife-Suman that appellant and Pooja had contracted marriage. However, it is on 20.07.2017 that appellant had admitted his second marriage with Pooja in a statement given to the investigating Officer. Consequently, it is clear that respondent came to know about the marriage on 20.07.2017 and therefore, cause of action to file contempt accrued on said date. Since the contempt petition was filed in November 2017, therefore, it cannot be said that contempt

petition is beyond limitation.

In view thereof, considering the facts of the case as well as the conduct of appellant, we have no hesitation in upholding the impugned order of conviction dated 14.02.2019 passed by learned Single Bench, which does not suffer from any illegality.

Resultantly, the present CACP is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

**(AVNEESH JHINGAN)
JUDGE**

May 27, 2019

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>