Ravinder Kumar And Anr vs State Of Punjab on 31 August, 2001

Equivalent citations: AIR 2001 SUPREME COURT 3570, 2001 AIR SCW 3366, (2001) 7 JT 377 (SC), 2001 CRILR(SC&MP) 837, (2001) 4 CRIMES 260, 2001 (9) SRJ 80, 2001 (7) JT 377, 2001 (6) SCALE 119, 2001 CALCRILR 502, 2001 SCC(CRI) 1384, 2001 (7) SCC 690, 2001 CRILR(SC MAH GUJ) 837, 2001 (3) BLJR 2103, 2001 BLJR 3 2103, (2001) 4 ALLCRILR 87, (2001) 6 SUPREME 549, (2002) SC CR R 795, (2002) 1 MAHLR 209, (2002) 1 RECCRIR 227, (2001) 4 SCJ 419, (2001) 4 CURCRIR 24, (2001) 3 ALLCRIR 2497, (2001) 6 SCALE 119, (2001) 2 UC 631, (2001) 43 ALLCRIC 755, (2001) 3 EASTCRIC 216, 2002 (1) ALD(CRL) 259

Bench: K.T.Thomas, S.N.Variava

CASE NO.:
Appeal (crl.) 881 of 2001
Special Leave Petition (crl.) 1118 of 2001

PETITIONER:
RAVINDER KUMAR AND ANR.

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT: 31/08/2001

BENCH:
K.T.Thomas, S.N.Variava

JUDGMENT:

THOMAS, J.

Leave granted.

A railway burial was contrived for eliminating the corpse of a business broker of Ludhiana. The coffin made for that purpose was camouflaged as parcel container to be despatched to a distant destination. But the parcel narrowly missed from being consigned to the railway bogie as some employees at the Parcel Service Center smelled foul. The suspicion led to the disinterring of a

strangled body which was later identified to be that of the aforesaid business broker. Eventually it led to the detection of an orchestrated murder committed by the appellants. The trial court convicted the appellants for murder of the business broker besides the offences of abducting him and destroying the evidence. They were sentenced to imprisonment for life on the main count and to lesser terms of imprisonment on the other two counts. A Division Bench of the High Court of Punjab and Haryana confirmed the conviction and sentence as per the judgment which is now being challenged.

Amar Kumar Gupta (deceased) and his wife Veena were living with their two little daughters (Sonia and Dimple) in their house at Ludhiana. He was making his livelihood through the brokerage earned by him in the business transactions with the manufacturers of hosiery goods. It appears that the two appellants were manufacturers of hosiery articles at Ludhiana and the manufacturing concern was called "M/s. Kapoor Knitting, Harbans Pura", and they had engaged the deceased as a broker for the sale of goods manufactured in their concern. The amount which the appellant owed to the deceased ranged around one lakh of rupees by way of brokerage.

Now the prosecution story can be narrated compendiously. On 2.2.1994 the appellant visited the house of the deceased at about 11 A.M. and they had a conversation, presumably about the brokerage claimed by the deceased or due to him. Appellants asked the deceased to go with them so that the accounts could be settled conveniently. Reciprocating the offer the deceased went with them. He rode on a scooter along with Mohan Lal Jain (PW-8) who was a close relative. As they reached the place of the appellants deceased relieved PW-8 who was in a hurry to go away for his own work.

The vivid details of what all happened thereafter are not known except that at some time during the day the two appellants murdered the deceased by strangulating him with a ligature. They packed the dead body in a wooden container. It was wrapped in a gunny bag, on the top of which they scribbled the words "To self-Arun Goel; G-1 New Delhi". They engaged a rickshaw-puller to transport the container to the parcel service center adjoining the Railway Station at Ludhiana. PW-5 Daya Ram (rickshaw- puller) collected the load from the premises of M/s. Kapoor Knitting and transported it in his rickshaw to the aforesaid parcel service center. The box was unloaded from the vehicle to the parcel building by the rickshaw-puller with the help of the two appellants and another person.

Then the two appellants approached PW-11 who was one of the partners of a parcel service firm and wanted to do the needful for booking the goods for being despatched to New Delhi. It was 4.30 P.M. but they learnt that the next goods train available from that station would be only on the succeeding day. However, PW-11 agreed that the goods would be despatched on the next day itself. But when the Parcel Supervisor weighed the load and found it to be 152 Kgs. he felt something fishy about it. But by that time both the appellants had left the scene. So the container was kept outside the Parcel Office. Perhaps the staff at the parcel section felt that the load was something suspicious and hence they wanted to see what was inside the container.

On 4.2.1994 the Chief Parcel Supervisor intimated the police about the suspicious container lying at their office. After the police reached, the container was opened and all of them became stunned

seeing a dead body with a ligature tied around its neck and the legs tied up with a string stuffed inside the box. The body was found wrapped with a black glazed paper and the box was wrapped with a gunny bag on which the destination of the parcel was scribbled as mentioned above. The inquest was held by PW-17 Boota Ram who was the Station House Officer, General Railway Police Station (GRPS), Ludhiana.

The police suspecting the appellants detailed a guard at the house of the accused as both were absent from the scene. On 11.2.1994, the first appellant Ravinder Kumar returned to the house but when he noticed the presence of the police in the vicinity of his house he realised that he was within the penumbra of police suspicion. He then ran away from the place. On the way he gulped some poison but before he could die he was admitted in the CMC Hospital, Ludhiana. On 25.2.1994 he was arrested by the police when he was discharged by the hospital authorities.

Appellant Surinder Kumar was arrested in connection with some other case on 2.5.1994 by the Jind Police. When PW-17 Boota Ram came to know of his arrest he proceeded to that station and took over the custody of appellant Surinder Kumar after formally arresting him in connection with this case.

The case rested entirely on circumstantial evidence. The trial court and the High Court concurrently found that the circumstances proved by the prosecution were quite sufficient to establish that the deceased was murdered by the two appellants and that they tried to dislodge the corpse in such a manner as to escape from anybody's suspicion.

We have no doubt that the deceased Amar Kumar Gupta was murdered on 2.2.1994 by ligature strangulation and his body was packed up in a wooden container which was camouflaged as a parcel consignment. Nor has that aspect been disputed by the appellants. The sole question which the appellants seriously disputed was that they were the killers of the deceased. To substantiate that appellants were the real murderers in this case prosecution has presented the following circumstances:

> (1) Appellants had dealings with the deceased and a good sum was to be paid to the deceased by way of brokerage.
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> (2) On 2.2.1994 appellants went to the house of the deceased and persuaded him to go with them up to their house at Mohalla Taj Ganj situated in Harbans Pura.
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> (3) On the same evening appellants engaged PW-5 Daya Ram (rickshaw-puller) to transport a load wrapped in a gunny bag from the factory of the appellants at Harbans Pura to the parcel office of the Ludhiana Railway Station.
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> (4) Appellants booked the parcel to be despatched to New Delhi on the same evening. When the parcel employees asked certain queries regarding the heavy weight of the load appellants advanced false excuses.

(5) The container was opened and the dead body was disintered. Since then the appellants remained absent from the locality itself for 14 days henceforth.

(6) The appellant Ravinder Kumar immediately on smelling that police suspected him attempted to commit suicide.

(7) On the information supplied by the said appellant the scooter of the deceased was retrieved from the premises of the Railway Station, Ludhiana. (8) The clothes of the deceased were recovered by PW-17 Investigating Officer on the basis of the information elicited from appellant Ravinder Kumar.

Both the courts found that the prosecution has established the above circumstances with convincing and reliable evidence. But learned counsel for the appellants contended that there are some basic infirmities which did not weigh with the two courts and those infirmities are sufficient to disrupt the chain of circumstances. He first contended that the FIR was inordinately delayed and that itself is a vitiating factor. His next contention was that the two courts did not consider how a rickshaw-puller would remember, after many days, that a particular load was transported at the instance of the appellants. Lastly, he contended that the appellants had no motive to murder the deceased, and even the suggestion made by the prosecution for that purpose remained unsubstantiated. On these grounds he pleaded for interference with the conviction and sentence passed on the appellants.

The attack on prosecution cases on the ground of delay in lodging FIR has almost bogged down as a stereotyped redundancy in criminal cases. It is a recurring feature in most of the criminal cases that there would be some delay in furnishing the first information to the police. It has to be remembered that law has not fixed any time for lodging the FIR. Hence a delayed FIR is not illegal. Of course a prompt and immediate lodging of the FIR is the ideal as that would give the prosecution a twin advantage. First is that it affords commencement of the investigation without any time lapse. Second is that it expels the opportunity for any possible concoction of a false version. Barring these two plus points for a promptly lodged FIR the demerits of the delayed FIR cannot operate as fatal to any prosecution case. It cannot be overlooked that even a promptly lodged FIR is not an unreserved guarantee for the genuineness of the version incorporated therein.

When there is criticism on the ground that FIR in a case was delayed the court has to look at the reason why there was such a delay. There can be a variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconversantness is not too uncommon among urban people also. They might not immediately think of going to the police station. Another possibility is due to lack of adequate transport facilities for the informers to reach the police station. The third, which is a quite common bearing, is that the kith and kin of the deceased might take some appreciable time to regain a certain level of tranquillity of mind or sedativeness of temper for moving to the police station for the purpose of furnishing the requisite information. Yet another cause is, the persons who are supposed to give such information themselves could be so physically impaired that the police had to reach them on getting some nebulous information about the incident.

We are not providing an exhausting catalogue of instances which could cause delay in lodging the FIR. Our effort is to try to point out that the stale demand made in the criminal courts to treat the FIR vitiated merely on the ground of delay in its lodgment cannot be approved as a legal corollary. In any case, where there is delay in making the FIR the court is to look at the causes for it and if such causes are not attributable to any effort to concoct a version no consequence shall be attached to the mere delay in lodging the FIR. [Vide Zahoor vs. State of UP (1991 Suppl.(1) SCC 372; Tara Singh vs. State of Punjab (1991 Suppl.(1) SCC 536); Jamna vs. State of UP (1994 (1) SCC 185). In Tara Singh (Supra) the Court made the following observations:

> "It is well settled that the delay in giving the FIR by itself cannot be a ground to doubt the prosecution case. Knowing the Indian conditions as they are we cannot expect these villagers to rush to the police station immediately after the occurrence. Human nature as it is, the kith and kin who have witnessed the occurrence cannot be expected to act mechanically with all the promptitude in giving the report to the police. At times being grief-stricken because of the calamity it may not immediately occur to them that they should give a report. After all it is but natural in these circumstances for them to take some time to go to the police station for giving the report."

In the present case, no doubt, there is apparently a long delay of two days to give information to the police but the bereaved widow was not absolutely certain that she lost her husband once and for all until her brother-in-law confirmed to her, after identifying the dead body, that the same was that of her husband. The initial tension and suspense, undergone by her would have billowed up into a massive wave of grief. It is only understandable how much time a woman, placed in such a situation, would take to reach some level of placidity for communicating to the strangers of what she knew about the last journey of her husband. We therefore find no merit in the contention based on the delay of lodging the FIR.

The second contention relates to the evidence of PW-5 Daya Ram (rickshaw-puller). He remembered the two appellants who engaged him to carry the load in his rickshaw up to the railway station. He also identified the wooden box in which the load was packed, with the help of the scribblings made on it. The contention is that it is not possible for any person, much less a rickshaw-puller like PW5, to remember who exactly employed him to carry a particular load on a particular day, after the lapse of several days thereafter. This contention is raised overlooking the psychological phenomenon that human memory is very often a conditioned characteristic. Anything which has any special or peculiar lineament can create an impact on the human mind lasting for long. While it is true that routine events in a man's day to day life may not remain in his mind for being remembered later, any odd or bizarre happenings involving him or in front of him have the tendency to stick in his mind indelibly. If there is any cause for him to recollect such events again they get refreshed again. That is why he is able to narrate such events with all details when asked to do so. This applies to all witnesses in criminal cases involving serious offences. Normally no porter or rickshaw-puller could speak from memory as to whom or whose load he carried many days ago. But if the carrying of a load on a particular day was soon followed by the flash of sensational news in the locality - that the load contained the corpse of a murdered person, the instinctive reaction of the

carrier is to become inquisitive to know whether it was in respect of the load which he himself carried. If that inquisitiveness had turned positive it is extremely probable that all the vivid details relating to that event would stick in his memory. For him such event would not have been a usual occurrence but extraordinarily odd and queer. Hence it is not likely to fade out of the canvass of his mind. It will be unrealistic to jettison the testimony of such a witness on the mere ground that he could not have remembered after the lapse of long period the identity of the persons who engaged him and also of the load which he carried. We, therefore, repel such contention.

The third contention is that the motive alleged by the prosecution was not established and hence the area remains gray as to what would have impelled them to liquidate the broker. No doubt it is the allegation of the prosecution that appellants owed a sum of Rs. one lakh to the deceased and it might not have been possible for the prosecution to prove that aspect to the hilt. Nonetheless some materials were produced for showing that there were transactions between the appellants and the deceased and that they had some account to be settled. Only thus far could be established but not further. It is generally an impossible task for the prosecution to prove what precisely would have impelled the murderers to kill a particular person. All that prosecution in many cases could point to is the possible mental element which could have been the cause for the murder. In this connection we deem it useful to refer to the observations of this Court in State of Himachal Pradesh vs. Jeet Singh {1999 (4) SCC 370}:

> "No doubt it is a sound principle to remember that every criminal act was done with a motive but its corollary is not that no criminal offence would have been committed if the prosecution has failed to prove the precise motive of the accused to commit it. When the prosecution succeeded in showing the possibility of some ire for the accused towards the victim, the inability to further put on record the manner in which such ire would have swelled up in the mind of the offender to such a degree as to impel him to commit the offence cannot be construed as a fatal weakness of the prosecution. It is almost an impossibility for the prosecution to unravel the full dimension of the mental disposition of an offender towards the person whom he offended."

An earlier decision of this Court in Nathuni Yadav vs. State of Bihar {1998 (9) SCC 238}, which dealt with the same aspect, has been referred to therein and a passage therefrom has been extracted. We are, therefore, not persuaded to change the tide on account of the inability of the prosecution to prove the motive aspect to the hilt.

In the result we dismiss this appeal.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 882 OF 2001
(Arising from S.L.P. (Crl.) No. 904 of 2001)

S. Nagalingam .. Appellant

Vs.

Sivagami .. Respondent

J U D G M E N T

K.G. BALAKRISHNAN, J.

Leave granted.

This appeal is directed against the judgment of the learned Single Judge of the High Court of Madras in Criminal Appeal No. 486 of 1999 reversing the order of acquittal passed by the Metropolitan Magistrate, Madras. The learned Single Judge found the appellant guilty of the offence under Section 494 IPC.

The appellant, S. Nagalingam married respondent-complainant Sivagami on 6.9.1970. Three children were born from that wedlock. The respondent alleged that the appellant started ill-treating her and on many occasions she was physically tortured. As a result of ill-treatment and severe torture inflicted by the appellant as well as his mother, she left her marital home and started staying with her parents. Whille so, the respondent came to know that the appellant had entered into a marriage with another woman on 18.6.1984, by name Kasturi, and that the marriage was performed in a Marriage Hall at Thiruthani. The respondent then filed a criminal complaint before the Metropolitan Magistrate against the appellant and six others. All the accused were acquitted by the trial court. Aggrieved thereby, the respondent filed criminal appeal No. 67 of 1992 before the High Court of Madras. The learned Single Judge, by his judgment dated 1.11.1996 upheld the acquittal of accused 2-7, but as regards the acquittal of the appellant, the matter was remitted to the trial court permitting the complainant to adduce evidence regarding the manner in which the marriage was solemnized. Upon remand, the Priest [PW-3], who is alleged to have performed the marriage of the appellant with the second accused, Kasturi, on 18.6.1984, was further examined and the appellant was allowed further cross-examination. The learned Metropolitan Magistrate by his judgment dated 4.3.1999 acquitted the accused. Aggrieved by the said judgment, the respondent preferred a criminal

appeal before the High Court of Madras. By the impugned judgment, the learned Single Judge held that the appellant had committed the offence punishable under Section 494 IPC. This is challenged before us.

We heard Mr. R. Sundravardan, learned senior counsel for the appellant. The respondent Sivagami appeared in person and she filed some documents in court. Though she was offered the assistance of a counsel, she declined to avail herself of that opportunity.

The short question that arises for our consideration is whether the second marriage entered into by appellant with the second accused, Kasturi, on 18.6.1984 was a valid marriage under Hindu Law so as to constitute an offence under Section 494 IPC.

The essential ingredients of the offence under Section 494 IPC are (I) the accused must have contracted the first marriage; (ii) whilst the first marriage was subsisting, the accused must have contracted a second marriage; and (iii) both the marriages must be valid in the sense that necessary ceremonies governing the parties must have been performed.

Admittedly, the marriage of the appellant with the respondent, entered into by them on 6.9.1970, was subsisting at the time of the alleged second marriage. The Metropolitan Magistrate held that an important ceremony, namely, "Saptapadi" had not been performed and therefore, the second marriage was not a valid marriage and no offence was committed by the appellant . The learned Single Judge reversing this decision in appeal held that the parties are governed by Section 7-A of the Hindu Marriage Act as the parties are Hindus residing within the State of Tamil Nadu. It was held that there was a valid second marriage and the appellant was guilty of the offence of bigamy.

In the complaint filed by the respondent, it was alleged that the appellant had contracted the second marriage and this marriage was solemnised in accordance with the Hindu rites on 18.6.1984 at RCC Mandapam, Tiruttani Devasthanam. To support this contention, PWs 2 & 3 were examined. PW-3 gave detailed evidence regarding the manner in which the marriage on 18.6.1984 was performed.

Learned counsel for the appellant contended that as per the evidence of PW-3, it is clear that "Saptapadi", an important ritual which forms part of the marriage ceremony, was not performed and therefore, there was no valid marriage in accordance with Hindu rites.

It is undoubtedly true that the second marriage should be proved to be a valid marriage according to the personal law of the parties, though such second marriage is void under Section 17 of the Hindu Marriage Act having been performed when the earlier marriage is subsisting. The validity of the second marriage is to be proved by the prosecution by satisfactory evidence.

In Kanwal Ram & Ors. vs. H.P. Administration AIR 1966 SC 614 this Court held that in a bigamy case, the second marriage is to be proved and the essential ceremony required for a valid marriage should have been performed. It was held that mere admission on the part of the accused may not be sufficient.

The question as to whether "Saptapadi" is an essential ritual to be performed, came up for consideration of this Court in some cases. One of the earliest decisions of this Court is 1971 (1) SCC 864 [Smt. Priya Bala Ghosh vs. Suresh Chandra Ghosh] wherein it was held that the second marriage should be a valid one according to the law applicable to the parties. In that case, there was no evidence regarding the performance of the essential ceremonies, namely, "Datta Homa" and "Saptapadi". In paragraph 25 of the judgment, it was held that the learned Sessions Judge and the High Court have categorically found that "Homo" and "Saptapadi" are the essential rites for a marriage according to the law governing the parties and there is no evidence that these two essential ceremonies have been performed when the respondent is stated to have married Sandhya Rani. It is pertinent to note that in paragraph 9 of the judgment it is stated that both sides agreed that according to the law prevalent amongst the parties, "Homo" and "Saptapadi" were essential rites to be performed to constitute a valid marriage. Before this Court also, the parties on either side agreed that according to the law prevalent among them, "Homo" and "Saptapadi" were essential rites to be performed for solemnization of the marriage and there was no specific evidence regarding the performance of these two essential ceremonies.

1979 (3) SCC 80 [Lingari Obulamma vs. L. Venkata Reddy & Ors.] was a case where the High Court held that two essential ceremonies of a valid marriage, namely "datta homa" and "sapathapathi" [taking seven steps around the sacred fire] were not performed and, therefore, the marriage was void in the eye of law. This finding was upheld by this Court. The appellant therein contended that among the "Reddy" community in Andhra Pradesh, there was no such custom of performing "datta homa" and "saptapadi", but the High Court held that under the Hindu Law these two ceremonies were essential to constitute a valid marriage and rejected the plea of the appellant on the ground that there was no evidence to prove that any of these two ceremonies had been performed. The finding of the High Court was upheld by this Court that there was no evidence to prove a second valid marriage.

In 1991 Supp. (2) SCC 616 [Santi Deb Berma vs. Kanchan Prava Devi] also, the appellant was acquitted by this Court as there was no proof of a valid marriage as the ceremonial "Saptapadi" was not performed. This Court noticed in this case also that the High Court proceeded on the footing that according to the parties, performance of "Saptapadi" is one of the essential ceremonies to constitute a valid marriage.

Another decision on this point is 1994 (5) SCC 545 [Laxmi Devi vs. Satya Narayan & Ors.] wherein, this Court, relying on an earlier decision in [1971] 1 SCC 864 (supra), held that there was no proof that "Saptapadi" was performed and therefore, there was no valid second marriage and that no offence of bigamy was committed.

In the aforesaid decisions rendered by this Court, it has been held that if the parties to the second marriage perform traditional Hindu form of marriage, "Saptapadi" and "Datta Homa" are essential ceremonies and without there being these two ceremonies, there would not be a valid marriage.

In the instant case, the parties to the second marriage, namely the appellant, Nagalingam, and his alleged second wife, Kasturi, are residents of the State of Tamil Nadu and their marriage was

performed at Thiruthani Temple within the State of Tamil Nadu. In the Hindu Marriage Act, 1955, there is a State Amendment by the State of Tamil Nadu, which has been inserted as Section 7-A. The relevant portion thereof is as follows :

> "7-A. Special provision regarding suyamariyathai and seerthiruththa marriages. --- (1) This section shall apply to any marriage between any two Hindus, whether called suyamariyathai marriage or seerthiruththa marriage or by any other name, solemnized in the presence of relatives, friends or other persons --
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> (a) by each party to the marriage declaring in any language understood by the parties that each takes the other to be his wife or, as the case may be, her husband; or
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> (b) by each party to the marriage garlanding the other or putting a ring upon any finger of the other; or
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> (c) by the tying of the thali.
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> (2) (a) Notwithstanding anything contained in Section 7, but subject to the other provisions of this Act, all marriages to which this section applies solemnized after the commencement of the Hindu Marriage (Madras Amendment) Act, 1967, shall be good and valid in law.
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> (b) Notwithstanding anything contained in Section 7 or in any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of the Hindu Marriage (Madras Amendment) Act, 1967, or in any other law in force immediately before such commencement in any judgment, decree or order of any court, but subject to sub-section (3), all marriages to which this section applies solemnized at any time before such commencement, shall be deemed to have been with effect on and from the date of the solemnization of each such marriage, respectively, good and valid in law.
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> (3) .....
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> (a).....
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> (i) .....
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> (ii) .....
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> (b) .....
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> (c) ..... (4) ....."

Section 7-A applies to any marriage between two Hindus solemnized in the presence of relatives, friends or other persons. The main thrust of this provision is that the presence of a priest is not necessary for the performance of a valid marriage. Parties can enter into a marriage in the presence of relatives or friends or other persons and each party to the marriage should declare in the language understood by the parties that each takes other to be his wife or, as the case may be, her husband, and the marriage would be completed by a simple ceremony requiring the parties to the marriage to garland each other or put a ring upon any finger of the other or tie a thali. Any of these ceremonies, namely garlanding each other or putting a ring upon any finger of the other or tying a thali would be sufficient to complete a valid marriage. Sub-section 2(a) of Section 7-A specifically says that notwithstanding anything contained in Section 7, all marriages to which this provision applies and solemnized after the commencement of the Hindu Marriage (Madras Amendment) Act, 1967 shall be good and valid in law. Sub-section 2(b) further says that notwithstanding anything contained in Section 7 or in any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of the Hindu Marriage (Madras Amendment) Act 1967, or in any other law in force immediately before such commencement or in any judgment, decree or order of any court, all marriages to which this section applies solemnized at any time before such commencement, shall be deemed to have been valid. The only inhibition provided is that this marriage shall be subject to Sub-Section (3) of Section 7-A. We need not elaborately consider the scope of Section 7-A(3) as that is not relevant for our purpose.

The evidence in this case as given by PW-3 clearly shows that there was a valid marriage in accordance with the provisions of Section 7-A of the Hindu Marriage Act. PW-3 deposed that the bridegroom brought the "Thirumangalam" and tied it around the neck of the bride and thereafter the bride and the bridegroom exchanged garlands three times and the father of the bride stated that he was giving his daughter to "Kanniyathan" on behalf of and in the witness of "Agnidevi" and the father of the bridegroom received and accepted the "Kanniyathan". PW-3 also deposed that he performed the marriage in accordance with the customs applicable to the parties.

Under such circumstances, the provisions of Section 7-A, namely, the State Amendment inserted in the Statute are applicable and there was a valid marriage between the appellant and Kasturi. Moreover, neither complainant nor the appellant had any case that for a valid marriage among the members of the community to which they belong, this ceremony of "Saptapadi" was an essential one to make it a valid marriage. Section 7 of the Hindu Marriage Act says that a Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto and where such rites and ceremonies include the Saptapadi, i.e. the taking of seven steps by the bridegroom and the bride jointly before the sacred fire, the marriage becomes complete and binding when the seventh step is taken.

> "Saptapadi" was held to be an essential ceremony for a valid marriage only in cases where it was admitted by the parties that as per the form of marriage applicable to them that was an essential ceremony. The appellant in the instant case, however, had no such case that "Saptapadi" was an essential ceremony for a valid marriage as per the personal law applicable whereas the provisions contained in Section 7-A are applicable to the parties. In any view of the matter, there was a valid marriage on

18.6.1984 between the appellant and the second accused, Kasturi. Therefore, it was proved that the appellant had committed the offence of bigamy as it was done during the subsistence of his earlier marriage held on 6.9.1970.

The learned Single Judge was right in holding that the appellant committed the offence of bigamy and the matter was correctly remanded to the trial court for awarding appropriate sentence. We see no merit in this appeal and the same is dismissed accordingly.

.....J (D.P. Mohapatra) .....J (K.G. Balakrishnan) New Delhi, August 31,2001