

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1390/2014

BIRBAL MAHALI Appellant(s)

VERSUS

THE STATE OF WEST BENGAL & ANR. Respondent(s)

O R D E R

The appellant has been convicted concurrently by all the three forums for the offence punishable under Section 493 of the IPC.

We have heard learned counsel appearing for the appellant and learned counsel appearing for the respondent-State.

Despite notice, no one appears for the respondent No.2 who is the complainant.

The sum and substance of the case of the respondent No.2, in her private complaint, is that suppressing the prior marriage, the appellant entered into this second marriage with the complainant after converting himself from a Hindu to a Muslim.

All the three Courts have concurrently held that the charge against the appellant is proved.

Much reliance has been placed on the evidence of the complainant.

Though learned counsel appearing for the appellant submitted that the evidence of the complainant by itself cannot be the sole basis for conviction, we are not inclined to accept the said submission. The complainant has clearly proved the charge. It is not in dispute that the appellant did convert himself from a Hindu to a Muslim. The complainant was not informed about the same. Not only PW-1, even the other witnesses supported her case.

In such view of the matter, the conviction rendered concurrently by the three Courts stands confirmed. However, we are inclined to modify the sentence. The occurrence was in the year 1988 and the respondent No.2 is not willing to prosecute the matter any further.

Taking note of the mitigating circumstances available, we are inclined to modify the sentence of the appellant to undergo one day of sentence which would be completed by being present before the Trial Court on 18th September, 2024 at 10.30 a.m. He shall remain present before the Court till its rising.

Accordingly, the appeal is allowed in part.

.....J.
[M.M. SUNDRESH]

.....J.
[ARAVIND KUMAR]

NEW DELHI;
AUGUST 29, 2024.

ITEM NO.111

COURT NO.13

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1390/2014

BIRBAL MAHALI

Appellant(s)

VERSUS

THE STATE OF WEST BENGAL & ANR.

Respondent(s)

Date : 29-08-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH

HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mr. Soumya Dutta, AOR
Mr. Siddhant Upmanyu, Adv.For Respondent(s) Ms. Astha Sharma, AOR
Ms. Mantika Haryani, Adv.
Ms. Pratibha Yadav, Adv.
Ms. Lihzu Shiney Konyak, Adv.UPON hearing the counsel the Court made the following
O R D E RThe appeal is allowed in part in terms of the
signed order.Pending application(s), if any, shall stand
disposed of.(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS(POONAM VAID)
COURT MASTER (NSH)

[Signed order is placed on the file]