

BIGAMY

Bigamy when a spouse either husband or wife contracts a second marriage while the first marriage is still subsisting. The spouse will be guilty of bigamy if it is proved that the second marriage was valid one, valid one in the sense that the ceremonies required by law or by custom had been performed properly. The second marriage to someone who is already legally married is void and annulled while there is no effect on the first marriage. According to sec.494 of Indian penal code whoever marries again during the lifetime of husband and wife shall be punished with imprisonment of either description for a term which may extend to seven years and also liable for fine. Bigamy to be a criminal offence to check the sexual immorality. It warrants equality in sexual relationship and protects the women from exploitation by male. Similarly, in the case of Muslims marries a fifth time during the subsistence of four earlier marriages. A Muslim male who marries under the Special Marriage Act, 1954 is liable to punishment under this section if he marries for the second times. Second marriage by a Muslim, who is entitled to four wives, is not an offence under this section. Prior to the enactment of the Hindu Marriage Act, a Hindu man marry more than one wife. However, after the coming into force of the Hindu Marriage Act, the situation has changed. S 17 of the Hindu Marriage Act makes a second marriage void. The effect of this provision is to make S 494 of the Penal Code applicable to Hindus. Once the wife proves that the husband has married another lady and is living with her and the first wife is living separately she is entitled to maintenance without any further proof. The mere keeping of a mistress or a concubine is not sufficient to attract the penal consequences of this section as there is no marriage happen and the concubine does not enjoy the status of wife. The spouse by changing their own religion does not enforce his or her own personal right and they are not allowed to marriage again during the subsistence of first marriage because nowhere in the legislation it is mentioned that you are free from first marriage only by conversion. The first marriage under the Hindu Marriage Act subsists even after the conversion. It is only a ground for divorce(S 13(1)(ii)). It can be dissolved only by a decree of divorce granted under the Act. This section is applicable only to that place where the second marriage is void but in many society second marriage during subsistence of first marriage is followed since a long time and now become a custom or tradition so the prudent people can't oppose them.

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EFFECT

The polygamous family structure has an impact on children's and wives' psychological, social and family functioning. The family structure is poor among children whose direct impact on their education which causes low education attainment. If a husband commits bigamy then he can't keep both as equal, inequality among co-wives causes mental and psychological problems. Its effect is directly on their health. As per Hindu code, only the first wife is a legal heir of the husband while the second wife is not entitled to any share in the ancestral estate and, if the husband has died without leaving a will, even in his self-acquired property. Once the second marriage is declared null and void, the wife concerned cannot even claim maintenance as a matter of right.

Accordingly, polygamy is considered a serious social problem may threaten and damage families at any time.

In India bigamy is an offence and the women who became the victim of this social injustice suffered a lot because of which a husband tries to save himself from the punishment of doing second marriage like- many times the first wife failed to prove the proper solemnization of second marriage.

Under this condition the wife cannot charge her husband for bigamy she can charge him for adultery only if the woman with whom he did sexual intercourse is a married woman.

If the second wife was deserted by her husband, she will be entitled to get maintenance from him under Section 125 Cr.P.C., notwithstanding the validity of the marriage.

that children from a second wife had rights to their father's ancestral property. Section 16(3) of the Hindu Marriage Act as amended, does not impose any restriction on the property right of Illegitimate Child except limiting it to the property of their parents. Therefore, such children will have a right to whatever becomes the property of their parents whether self-acquired or ancestral.