

(1945) 01 AHC CK 0017

Allahabad High Court

Case No: None

L. Bhagwat Sarup and Another

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: Jan. 2, 1945**Acts Referred:**

- Child Marriage Restraint Act, 1929 - Section 6

Citation: AIR 1945 All 306 : (1945) 15 AWR 67**Hon'ble Judges:** Bennett, J; Bennet, J**Bench:** Division Bench**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

Bennett, J.

This is an application in revision by two men named Bhagwat Sarup and Rup Basant, who were convicted of an offence u/s 6, Child Marriage Restraint Act of 1928, and each sentenced to pay a fine of Rs. 100. The offence was found to be committed in connection with the marriage of a girl named Mt. Pushpalata Devi, whose age at the time of the wedding was found to be less than 14 years. Bhagwat Sarup is her father and Rup Basant is her grandfather. The Courts below concentrated their attention very largely on the question of the girl's age. Their finding on this point is a finding of fact and I do not, therefore, propose to discuss it. Learned Counsel for the applicants referred to a decision of a learned single Judge of this Court in [Munshi Ram and Another Vs. Emperor](#), and founded thereon a contention with regard to the first words of Section 6, namely "where a minor contracts a child marriage." The suggestion, I understand, was that the section applied only to cases where the child himself or herself entered into an agreement for the marriage, but I do not construe the words in this sense. Even if I agreed that there was some justification for the construction placed upon these words by the learned Counsel, the case cited would

not help him, for in that case Ganga Nath J. observed as follows:

It is only in the case a minor contracts child marriage that any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnized, or negligently fails to prevent it from being solemnized, shall be punishable.

2. It is clear from this that the liability rests on any parent or guardian who in any way is responsible for the marriage of his minor child, by whomsoever the agreement and arrangements for the marriage may be made. It appears to me, however, that there is a legal objection to the conviction of the grandfather, Rup Basant, though the point does not appear to have been raised before. The point is that the father, Bhagwat Sarup, was presumably in charge of his daughter as her parent, and, although the grandfather may have also made arrangements for the marriage, the responsibility is laid by Section 6 on the person who has charge of the minor, whether as parent or guardian or in any other capacity. It appears to me to be difficult to hold that where the father is alive and living with his daughter, the grandfather has also charge of her. In this view of the matter the conviction of the grandfather, Rup Basant, was not justified, and I accordingly allow the application so far as he is concerned and set aside his conviction and sentence. The fine of Rs. 100, if paid by him, must be refunded. The application, so far as it relates to the father, Bhagwat Sarup, is dismissed.