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# **BIGAMY UNDER INDIAN LAW: A CRITICAL ANALYSIS WITH REFERENCE TO SUPREME COURT VERDICTS**

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## ***Abstract***

Bigamy, as a matrimonial offence under Indian law, represents a critical intersection of criminal law, personal laws, and constitutional principles. In a pluralistic legal system like India, the regulation of bigamy poses unique challenges due to the coexistence of diverse religious marriage practices and a uniform penal framework. This paper undertakes a critical analysis of bigamy under Indian law with specific reference to landmark judgments of the Supreme Court of India. It examines the statutory provisions governing bigamy, particularly Sections 494 and 495 of the Indian Penal Code, 1860, alongside the relevant personal laws regulating marriage. The study critically evaluates judicial responses to issues such as religious conversion for contracting a second marriage, evidentiary requirements for proving bigamy, and the legal status of women in void bigamous relationships. Through an analysis of key decisions including *Sarla Mudgal v. Union of India*, *Lily Thomas v. Union of India*, and *Savitaben Somabhai Bhatiya v. State of Gujarat*, the paper highlights the Supreme Court's effort to harmonize personal laws with constitutional values of equality, dignity, and gender justice. The research further explores the socio-legal implications and implementation challenges of bigamy laws, emphasizing the need for legal and policy reforms. The paper concludes that while judicial intervention has strengthened the legal framework against bigamy, comprehensive legislative reforms are essential to ensure substantive justice and effective protection of women's rights.

**Keywords:** Bigamy, Indian Penal Code, Personal Laws, Supreme Court Judgments, Gender Justice, Constitutional Morality

## Introduction

Bigamy is a legally recognized matrimonial offence that strikes at the core of the institution of marriage, which is traditionally regarded as a sacred, social, and legal bond. The term *bigamy* is derived from the Latin words *bi* meaning “two” and *gamos* meaning “marriage,” signifying the act of entering into a second marriage while the first marriage is still subsisting. In legal parlance, bigamy refers to the offence committed when a person, having a legally valid spouse living, contracts another marriage that is void due to the existence of the former marriage. The offence of bigamy is thus premised on the principle of monogamy, which forms the foundation of modern matrimonial jurisprudence in India.

In the Indian context, bigamy must be understood not merely as a personal or moral wrong but as a criminal offence governed by statutory law. Section 494 of the Indian Penal Code, 1860, defines and penalizes bigamy by prescribing punishment for anyone who marries again during the lifetime of their spouse, provided such marriage is legally void by reason of the subsistence of the earlier marriage. The offence becomes aggravated under Section 495 of the IPC when the fact of the former marriage is concealed from the person with whom the subsequent marriage is contracted. These provisions reflect the legislative intent to preserve the sanctity of marriage and to protect the legal and emotional rights of the lawful spouse.

Bigamy differs from related matrimonial concepts such as polygamy and adultery. Polygamy refers to the practice of having more than one spouse at the same time and may be permitted under certain personal laws, particularly Muslim law, subject to conditions. Bigamy, on the other hand, is a criminal offence applicable primarily to communities governed by monogamous marriage laws, such as Hindus, Christians, Parsis, and persons married under the Special Marriage Act, 1954. Adultery, by contrast, involves extramarital sexual relations and does not require the solemnization of a second marriage. The distinguishing element of bigamy lies in the legal act of marriage itself, which renders the subsequent union void and punishable.

The concept of bigamy in India is closely linked to the evolution of matrimonial laws post-independence. The Hindu Marriage Act, 1955, marked a significant shift by statutorily enforcing monogamy among Hindus and rendering bigamous marriages void under Section 11, while simultaneously attracting criminal liability under Section 17 of the Act read with Sections 494 and 495 of the IPC. This legal transformation reflected a broader commitment to gender justice, equality, and social reform, particularly aimed at protecting women from exploitation

within marital relationships.

From a socio-legal perspective, bigamy raises complex issues involving personal laws, religious freedom, and constitutional morality. While marriage is a personal relationship, its regulation through criminal law underscores the State's role in ensuring fairness, dignity, and justice within family structures. The offence of bigamy seeks to prevent deception, emotional harm, and economic insecurity caused to the lawful spouse, most often women, and children born out of marital relationships. At the same time, the persistence of diverse personal laws in India has led to legal ambiguities and conflicting interpretations, especially in cases involving religious conversion and second marriages.

Bigamy represents a violation of both legal norms and societal expectations surrounding marriage. Its criminalization under Indian law signifies the importance accorded to marital fidelity, transparency, and equality within the institution of marriage. Understanding the concept and meaning of bigamy is therefore essential to appreciate the judicial approach adopted by the Supreme Court of India, which has consistently attempted to balance individual freedoms with constitutional values and social justice.

### ***Historical Evolution of Bigamy Laws in India***

The legal regulation of bigamy in India has undergone a significant transformation from ancient times to the modern statutory framework. This evolution reflects changing social values, religious practices, and the increasing role of the State in regulating matrimonial relations. The shift from permissive plural marriages to a legally enforced monogamous system marks an important milestone in India's legal and social history.

#### **Bigamy in Ancient Hindu Law**

In ancient Hindu law, marriage was regarded as a sacred *samskara* (sacrament) rather than a contractual relationship. Classical Hindu texts such as the *Manusmriti* and *Dharmashastras* did not strictly prohibit polygamy. While monogamy was considered the ideal form of marriage, polygamy was socially and religiously permissible, particularly among kings, nobles, and wealthy men. Multiple marriages were often justified on grounds such as the absence of a male heir, infertility of the wife, or social and political alliances. However, women were bound by strict monogamy, reflecting a patriarchal social structure. Importantly, ancient

Hindu law did not recognize bigamy as a criminal offence, and matrimonial relations were governed primarily by religious norms and customs rather than enforceable legal sanctions.

### **Position during the Colonial Period**

During British rule, the colonial administration largely followed a policy of non-interference in personal laws relating to marriage and family matters. Hindu, Muslim, and other personal laws continued to govern matrimonial relations, including the practice of polygamy. However, the introduction of the Indian Penal Code, 1860, marked a significant development in the criminal law framework. Sections 494 and 495 of the IPC criminalized bigamy but made the offence applicable only where the second marriage was void under the personal law governing the parties. As Hindu law at the time permitted polygamy, Hindus were effectively excluded from the operation of these provisions. Consequently, the criminalization of bigamy during the colonial period had limited practical impact and primarily applied to communities where monogamy was recognized under personal law, such as Christians.

### **Codification of Marriage Laws after Independence**

A major shift occurred after independence with the codification of personal laws aimed at social reform and gender justice. The enactment of the Hindu Marriage Act, 1955, was a watershed moment in the history of bigamy laws in India. The Act statutorily imposed monogamy among Hindus by declaring bigamous marriages void under Section 11 and making such conduct punishable under Section 17 read with Sections 494 and 495 of the IPC. Similar monogamous principles were reinforced under the Special Marriage Act, 1954, which applies to civil marriages irrespective of religion. These legislative measures reflected a conscious move towards equality, women's rights, and the modernization of family law in post-independence India.

### **Legislative Intent behind Criminalizing Bigamy**

The criminalization of bigamy was driven by multiple legislative objectives. Primarily, it sought to uphold the sanctity and stability of marriage by enforcing monogamy as a social norm. It also aimed to protect women from exploitation, deception, and economic insecurity arising from bigamous relationships. By imposing criminal liability, the legislature intended to deter fraudulent marriages and ensure marital transparency. Furthermore, the prohibition of bigamy aligned with constitutional values such as equality, dignity, and social justice, particularly under Articles 14 and 15 of the Constitution. Thus, the evolution of bigamy laws

in India reflects a gradual transition from religious permissiveness to state-regulated monogamy grounded in constitutional morality and gender justice.

### ***Statutory Framework Governing Bigamy***

The statutory regulation of bigamy in India reflects the complex interaction between criminal law and diverse personal laws governing marriage. While bigamy is primarily addressed under the Indian Penal Code, 1860, its application is closely linked to the validity of marriage under personal laws. This framework seeks to balance the secular objectives of criminal justice with the pluralistic nature of Indian family law.

#### **Indian Penal Code, 1860**

The principal penal provisions relating to bigamy are contained in Sections 494 and 495 of the Indian Penal Code. Section 494 defines the offence of bigamy and prescribes punishment for a person who marries again during the lifetime of his or her spouse, provided such marriage is void by reason of the subsistence of the earlier marriage. The essential ingredients of the offence include the existence of a valid first marriage, the subsistence of that marriage at the time of the second marriage, and the solemnization of the subsequent marriage. The provision prescribes punishment with imprisonment which may extend to seven years, along with fine. However, Section 494 exempts cases where the former marriage has been declared void by a competent court or where the spouse has been continuously absent for seven years and is presumed dead.

Section 495 deals with an aggravated form of bigamy and applies when the offender conceals the fact of the former marriage from the person with whom the subsequent marriage is contracted. In such cases, the punishment may extend to ten years of imprisonment and fine. The rationale behind this provision is to penalize deception and protect the innocent party from entering into a void marriage under false pretenses.

#### **Personal Laws and Bigamy**

Under the Hindu Marriage Act, 1955, bigamy is expressly prohibited. Section 17 of the Act declares that any marriage between two Hindus is void if either party has a living spouse at the time of the marriage. It further provides that such conduct shall be punishable under Sections 494 and 495 of the IPC. This provision marked a significant departure from pre-

codification Hindu law by statutorily enforcing monogamy and subjecting bigamous conduct to criminal liability.

Muslim personal law presents a distinct position on bigamy. Islamic law permits a Muslim man to have up to four wives, subject to the condition of equal treatment and justice among them. As such, polygamy per se is not considered illegal under Muslim personal law, and Section 494 IPC does not apply where the second marriage is valid under the governing personal law. However, judicial scrutiny has increasingly emphasized that the practice is not an absolute or unregulated right and must conform to constitutional principles.

Christian and Parsi marriage laws strictly enforce monogamy. The Indian Christian Marriage Act, 1872, and the Parsi Marriage and Divorce Act, 1936, prohibit bigamous marriages and render them void. Consequently, members of these communities are fully subject to prosecution under Sections 494 and 495 of the IPC in cases of bigamy.

### **Conflict between Personal Laws and Criminal Law**

The coexistence of diverse personal laws with a uniform criminal law has resulted in legal and constitutional tensions. While the IPC seeks to uniformly criminalize bigamy, its applicability depends on the validity of the second marriage under personal law. This creates differential treatment among communities, raising concerns of equality and gender justice. Judicial intervention, particularly by the Supreme Court, has attempted to harmonize personal laws with constitutional values by curbing misuse of religious freedom to evade criminal liability. Thus, the statutory framework governing bigamy illustrates the ongoing challenge of reconciling legal pluralism with the principles of a secular and equitable legal system.

### ***Bigamy and Constitutional Perspectives***

The issue of bigamy in India cannot be examined solely through the lens of criminal or personal laws; it must also be assessed in light of constitutional principles. The Constitution of India serves as the supreme normative framework, ensuring that all laws, including personal and criminal laws, conform to fundamental rights and constitutional morality. Judicial interpretation of bigamy has consistently attempted to reconcile individual religious practices with broader constitutional values.

### **Article 14 – Equality before Law**

Article 14 guarantees equality before the law and equal protection of laws. Differential treatment of bigamy across personal laws raises concerns under this provision, as individuals belonging to different religious communities are subject to varying marital norms. The Supreme Court has emphasized that personal laws cannot be used as instruments to defeat equality, particularly when they result in arbitrariness or discrimination. Bigamy, when permitted under certain personal laws but criminalized for others, presents a challenge to the constitutional mandate of equal treatment.

### **Article 15 – Gender Justice and Non-Discrimination**

Article 15 prohibits discrimination on the grounds of sex and supports the promotion of gender justice. Bigamy disproportionately affects women by undermining marital security, dignity, and economic stability. Judicial discourse has increasingly recognized that practices enabling bigamy often perpetuate patriarchal control and gender inequality. The criminalization of bigamy under monogamous marriage laws is thus viewed as a protective measure aimed at safeguarding women's rights.

### **Article 21 – Right to Life, Dignity, and Marital Security**

The right to life under Article 21 has been expansively interpreted to include dignity, privacy, and security within marital relationships. Bigamous marriages, particularly when concealed, violate the dignity and emotional well-being of the lawful spouse. The Supreme Court has acknowledged that marital stability and dignity form an integral part of the right to life, thereby justifying state intervention through criminal law.

### **Article 25 – Freedom of Religion and Its Limitations**

While Article 25 guarantees freedom of religion, it is expressly subject to public order, morality, health, and other fundamental rights. The Court has clarified that religious freedom does not extend to practices that contravene constitutional values or criminal law. Conversion or invocation of personal law to justify bigamy has therefore been judicially restricted.

### **Harmonization of Personal Laws with Constitutional Values**

The constitutional approach to bigamy underscores the need to harmonize personal laws with principles of equality, dignity, and justice. Judicial efforts in this direction reflect a gradual

shift towards constitutional morality, reinforcing the supremacy of fundamental rights over personal law practices.

### ***Supreme Court Jurisprudence on Bigamy***

The Supreme Court of India has played a pivotal role in shaping the jurisprudence on bigamy by interpreting statutory provisions in light of constitutional values. Through a series of landmark judgments, the Court has clarified the legal position on second marriages, religious conversion, and the rights of affected parties, thereby addressing ambiguities arising from India's plural personal law system.

#### ***Sarla Mudgal v. Union of India (1995)***

In *Sarla Mudgal v. Union of India*, the Supreme Court dealt with the practice of Hindu husbands converting to Islam solely for the purpose of contracting a second marriage without dissolving the first. The Court held that such a conversion does not dissolve the first marriage solemnized under the Hindu Marriage Act, 1955. A second marriage contracted during the subsistence of the first marriage would be void and attract punishment under Section 494 of the IPC. The Court categorically ruled that freedom of religion under Article 25 cannot be misused to commit fraud or evade criminal liability. This judgment strongly condemned the abuse of religious freedom and emphasized the need for a Uniform Civil Code to prevent such exploitation.

#### ***Lily Thomas v. Union of India (2000)***

The decision in *Lily Thomas* reaffirmed and clarified the principles laid down in *Sarla Mudgal*. The Court held that conversion to Islam does not automatically dissolve a Hindu marriage and that a second marriage after such conversion is invalid in law. The Court rejected the argument that conversion creates immunity from prosecution for bigamy, observing that such an interpretation would encourage deceit and undermine the institution of marriage. This judgment strengthened the criminal enforcement of monogamy among Hindus.

#### ***Savitaben Somabhai Bhatiya v. State of Gujarat (2005)***

In *Savitaben Somabhai Bhatiya*, the Supreme Court addressed the legal status and rights of a second wife in a bigamous marriage. While acknowledging the injustice faced by women in such relationships, the Court held that a woman whose marriage is void due to bigamy cannot claim the status of a legally wedded wife under Section 125 of the Code of Criminal Procedure.

The judgment exposed a legal vacuum in protecting innocent women who enter into void marriages without knowledge of the subsisting first marriage.

### ***G. S. Ponnarasi v. State of Tamil Nadu (2016)***

In this case, the Supreme Court examined the meaning of a “subsisting marriage” for the purpose of bigamy. The Court emphasized that the existence of a legally valid first marriage is a prerequisite for prosecution under Section 494 IPC. The judgment clarified evidentiary requirements, reinforcing that mere allegations are insufficient without proof of valid marriage ceremonies.

### ***Other Relevant Apex Court Judgments***

Other decisions, such as *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav* and *Badshah v. Urmila Badshah Godse*, further reflect judicial concern for gender justice while adhering to statutory limitations. Collectively, these judgments demonstrate the Supreme Court’s effort to balance personal laws, criminal liability, and constitutional morality in addressing the issue of bigamy.

### ***Critical Analysis of Apex Court Verdicts***

The Supreme Court’s intervention in matters relating to bigamy has significantly shaped the legal understanding of the offence in India. A critical analysis of Apex Court verdicts reveals both commendable consistency in upholding statutory monogamy and certain limitations arising from judicial restraint and legislative gaps.

### **Consistency in Judicial Interpretation**

The Supreme Court has demonstrated a largely consistent approach in interpreting bigamy-related provisions, particularly Sections 494 and 495 of the Indian Penal Code read with personal laws such as the Hindu Marriage Act, 1955. Judgments such as *Sarla Mudgal* and *Lily Thomas* clearly establish that a subsisting first marriage cannot be dissolved by mere religious conversion and that a second marriage under such circumstances attracts criminal liability. This consistency reinforces legal certainty and deters attempts to evade the law through fraudulent means. However, variations in relief granted to affected parties indicate a cautious judicial approach constrained by statutory language.

### **Judicial Activism vs. Legislative Domain**

In several cases, the Supreme Court has been accused of judicial activism, particularly in advocating for a Uniform Civil Code while adjudicating bigamy-related disputes. While such observations reflect constitutional aspirations, the Court has largely refrained from overstepping into the legislative domain by creating new rights or offences. Instead, it has interpreted existing statutes purposively. This balance demonstrates judicial restraint, yet it also highlights the limitations of adjudication in addressing systemic social issues without legislative reform.

### **Protection of First Spouse vs. Rights of Second Woman**

A prominent tension in bigamy jurisprudence lies in protecting the rights of the legally wedded first spouse while addressing the vulnerabilities of the second woman, who is often deceived into a void marriage. While the Court has strongly protected the interests of the first spouse by enforcing criminal sanctions against bigamy, decisions such as *Savitaben Somabhai Bhatiya* expose the legal vacuum faced by second wives who lack statutory recognition. This dichotomy reflects the Court's adherence to the letter of the law, even when it results in hardship.

### **Gender Justice Concerns**

From a gender justice perspective, Apex Court judgments acknowledge the patriarchal misuse of marriage and religion. However, the limited remedies available to women in bigamous relationships raise concerns about substantive equality. While criminalization acts as a deterrent, it does not fully address the socio-economic consequences suffered by women.

### **Judicial Approach towards Religious Conversions**

The Court has adopted a firm stance against religious conversions undertaken solely to facilitate bigamy. By subjecting such acts to criminal scrutiny, the judiciary has upheld constitutional morality over personal convenience. Overall, Supreme Court verdicts reflect a principled yet constrained effort to reconcile law, justice, and social reality.

### ***Socio-Legal Implications of Bigamy Laws***

The laws governing bigamy in India have far-reaching socio-legal implications that extend beyond the domain of criminal liability. Bigamy, though defined as a legal offence, remains deeply embedded in social practices influenced by patriarchy, religion, and economic

inequality. Consequently, the enforcement of bigamy laws presents complex challenges that affect individuals, families, and society at large.

From a social perspective, bigamy disproportionately impacts women, particularly the legally wedded wife and the second woman who is often unaware of the subsisting marriage. The first spouse faces emotional trauma, social stigma, and marital insecurity, while the second woman may suffer abandonment, economic deprivation, and lack of legal recognition. Children born out of such relationships also face uncertainty regarding legitimacy, inheritance, and social acceptance, despite judicial efforts to protect their rights. These realities highlight the gap between legal norms and lived experiences.

Legally, the prosecution of bigamy poses significant evidentiary challenges. Establishing the existence and validity of both marriages requires strict proof of solemnization in accordance with personal law rituals, which is often difficult due to informal or unregistered marriages. This results in low conviction rates and discourages victims from seeking legal remedies. Moreover, societal pressure, fear of family breakdown, and lack of awareness further contribute to underreporting of bigamy cases.

The coexistence of diverse personal laws adds another layer of complexity. While criminal law seeks uniformity, variations in personal laws create perceptions of unequal treatment and selective enforcement. This legal pluralism often undermines the deterrent effect of bigamy laws and fuels debates on constitutional equality and gender justice.

Socio-legal implications of bigamy laws reveal that criminalization alone is insufficient to address the underlying social causes of the practice. Effective enforcement requires complementary measures such as legal awareness, marital registration, social support systems for affected women, and legislative reforms aimed at ensuring substantive justice. The issue of bigamy thus underscores the need for a holistic approach that integrates law, social reform, and constitutional values.

### ***Challenges in Implementation of Bigamy Laws***

Despite the existence of clear statutory provisions criminalizing bigamy, the effective implementation of these laws in India faces several practical, legal, and social challenges.

These obstacles significantly weaken the deterrent value of the law and often deny timely justice to affected individuals, particularly women.

One of the primary challenges is the difficulty of proving the offence of bigamy. Courts require strict proof of the solemnization of both the first and second marriages in accordance with the applicable personal law. In many cases, marriages are performed informally, without registration or adequate documentary evidence, making it difficult for the prosecution to establish the essential ingredients of the offence under Sections 494 and 495 of the Indian Penal Code. This evidentiary burden often results in acquittals and discourages victims from pursuing legal remedies.

Another major challenge lies in procedural delays and low conviction rates. Bigamy cases are treated as criminal offences, involving prolonged investigations and trials. Social pressure, fear of retaliation, and the emotional toll of litigation often compel the aggrieved spouse to withdraw complaints or seek informal settlements. Additionally, bigamy is a non-cognizable offence in many jurisdictions, requiring prior court permission to initiate proceedings, which further delays justice.

Social and cultural factors also hinder effective implementation. Patriarchal norms, economic dependence of women, and societal acceptance of male dominance in marital relations contribute to the normalization of bigamous practices. Victims, especially women, often lack awareness of their legal rights or access to legal aid, particularly in rural and marginalized communities.

The coexistence of multiple personal laws creates confusion and uneven application of bigamy laws. The perception of selective criminalization undermines public confidence in the legal system. These challenges highlight the need for legal reforms, improved marital registration mechanisms, awareness programs, and a more victim-centric approach to ensure meaningful enforcement of bigamy laws in India.

### ***Need for Legal and Policy Reforms***

The persistent challenges in addressing bigamy under Indian law underscore the urgent need for comprehensive legal and policy reforms. While existing statutory provisions criminalize bigamy, they have proved insufficient in providing effective protection and

remedies to affected women and children. Legal reform is essential to bridge the gap between formal law and social realities.

One of the foremost reforms required is the strengthening of marriage registration mechanisms across all communities. Mandatory and uniform registration of marriages would significantly ease evidentiary burdens and improve the enforcement of bigamy laws. Additionally, legislative measures should be introduced to protect the rights of women who enter into void bigamous marriages without knowledge of the subsisting first marriage. Providing limited civil remedies such as maintenance, residence, and compensation would promote substantive justice and gender equality.

Policy reforms must also focus on harmonizing personal laws with constitutional values of equality, dignity, and non-discrimination. While respecting religious diversity, practices that undermine women's rights should be subjected to constitutional scrutiny. In this context, a gradual and consultative approach towards uniform principles governing marriage, rather than abrupt legal uniformity, may be more effective. Legal awareness programs, access to legal aid, and sensitization of law enforcement agencies are necessary to ensure victim-centric implementation. Together, these reforms can transform the legal response to bigamy from mere criminalization to meaningful social justice.

### ***Conclusion***

The study of bigamy under Indian law reveals the complex interplay between criminal law, personal laws, and constitutional principles in a pluralistic society. While bigamy is statutorily criminalized to uphold the sanctity of marriage and protect the rights of spouses, its practical enforcement remains fraught with legal and social challenges. The Supreme Court of India has played a crucial role in clarifying the law through landmark judgments, particularly by condemning the misuse of religious conversion and reinforcing the principle of monogamy under codified marriage laws. Judicial interpretations have consistently emphasized constitutional values such as equality, dignity, and gender justice. However, the continued vulnerability of women in bigamous relationships—especially second wives who lack legal recognition—highlights significant gaps in the existing legal framework. Criminal sanctions alone have proven inadequate in addressing the socio-economic consequences faced by affected women and children. The analysis underscores the need for a balanced approach that respects religious diversity while ensuring that personal laws conform to constitutional

morality. Legal and policy reforms, including mandatory marriage registration, enhanced civil remedies, and greater legal awareness, are essential for effective implementation. Ultimately, a holistic and rights-based legal framework is required to ensure that the law on bigamy serves not merely as a punitive measure but as an instrument of social justice and gender equality in contemporary India.

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