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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM-A No.366-MA of 2018 (O&M)
Date of Decision: 16.10.2023

JASWINDER KAUR Appellant
Vs
MALKIT SINGH AND ANR Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:Mr. Rajbir Singh, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. The appellant has preferred this appeal against the judgment of acquittal dated 28.10.2017 passed by the Judicial Magistrate Ist Class, Patiala in a criminal complaint under Sections 406, 420, 467, 468, 741 IPC at Police Station Civil Lines, Patiala.

[2]. The complainant/appellant Jaswinder Kaur filed the aforesaid complaint on the allegations that she is widow of late S. Manjeet Singh and has two minor children. Her husband Manjeet Singh died on 01.09.1998. The accused/respondent Malkit Singh is the real brother of Manjeet Singh. A telephone No.205636 was installed in the name of Manjeet Singh (now deceased) on 24.03.1998 and after the demise of Manjeet Singh, the complainant/appellant gave signed papers to the accused/respondent for surrendering the said telephone number in the year 2003 and to get refund of the security amount.

[3]. Further allegations are that the accused/respondent

never took effective steps to get the refund of the security and kept on postponing the matter. Ultimately, the complainant/appellant enquired from the office of BSNL in the year 2012 and came to know that the said telephone number has already been shifted on 06.07.2003 to the residence of accused/respondent. The complainant/appellant filed an application under the RTI Act 2005 and came to know that the application was signed by Manjeet Singh, whereas he had already died on 01.09.1998.

[4]. Further the complainant/appellant has alleged that the motorcycle Make Hero Honda was in the name of Manjeet Singh as per information received through RTI by the complainant/appellant. The said motorcycle has also been taken by the accused/respondent from the complainant/appellant with a promise to return the same after sometime but the accused/respondent did not return the same despite numerous requests made by the complainant. The motorcycle has been misappropriated by the accused/respondent. With these allegations, the criminal complaint came to be filed.

[5]. After leading evidence by the complainant/appellant, the trial Court framed the points for determination and after hearing arguments of both sides, acquitted the accused/respondent of the charges. The bail bonds and surety

bonds were discharged.

[6]. We have considered the submissions made by learned counsel for the appellant and found no infirmity/abrasion in the findings of acquittal recorded by the trial Court. The accused/respondent was entrusted with signed papers for the purpose of surrendering the telephone connection in the year 2003. The accused/respondent was also entrusted with the motorcycle of husband by the complainant. The allegations were made in respect of transfer of telephone connection in the name of the respondent and for misuse of motorcycle in question. The complainant is sister-in-law of the accused/respondent. The factum of death of Manjeet Singh is not in dispute. In order to prove forgery in respect of papers for transfer of telephone, it was incumbent upon the complainant/appellant to prove her case by leading cogent evidence from the record of BSNL. In pre-charge evidence Ram Pal SDO, BSNL, Urban Estate, Patiala came for recording his examination-in-chief on 11.12.2014, but thereafter he did not turn up for his cross-examination. The record produced by him could not be put to the witness in his cross-examination by the defence counsel, therefore, the statement of Ram Pal SDO, BSNL, Urban Estate, Patiala could not be read against the accused/respondent for want of his cross-examination in which incriminating material

could not be put to him. The complainant/appellant herself closed her evidence by not bringing the witness for cross-examination.

[7]. Dr. Inderjit Singh, Handwriting and Finger Prints Expert while appearing as CW-3 has stated that the signatures on the mark D1 i.e. on the application of recruitment form of the Punjab Police, signatures of the accused/respondent does not tally with the signatures as S1 to S7. The witness has tendered his evidence against the version of the complainant/appellant. The statement of CW-3 did not advance the case of the complainant even on the plea of matching configuration of the signatures appended upon the application moved by the accused/respondent to BSNL.

[8]. The allegation of motorcycle and transfer of RC in the name of the accused/respondent could not be proved by the complainant/appellant as according to the complainant/appellant, the motorcycle was given in her marriage by her parents but during cross-examination, the complainant has admitted that the date of her marriage was 06.03.1991. The motorcycle Make Hero Honda is made of year 1990 and being more than 15 years, the registration certificate of the vehicle could not be renewed as per the rules. Jasdev Singh from the DTO Office, Patiala while appearing as CW-1 has proved the

aforesaid fact and also proved that earlier the motorcycle in question was in the name of Vivek Aggarwal and its RC was transferred in the name of Manjit Singh. This witness has also stated that vehicle being more than 15 years old is not in working condition and it cannot be plied as per the rules of Motor Vehicle Act.

[9]. In view of aforesaid facts, it could not be established that the vehicle in question was given in dowry of the complainant/appellant. It was legally incumbent upon the complainant/appellant to prove the use of the motorcycle by the accused/respondent. Apart from the solitary statement of the complainant, no witness has been examined in respect of use of the motorcycle by the accused/respondent. Both the parties were having strained relations as admitted by the complainant. The complainant/appellant has admitted in her cross-examination that a complaint was moved against the accused/respondent with the allegation of rape. The defence has also projected the case that on enquiry, the said application was found to be false. The complainant/appellant has also admitted litigation with her father-in-law and the accused/respondent. No independent corroboration has been made in respect of allegations raised by the complainant/appellant.

[10]. On the basis of the aforesaid reasoning, the findings recorded by the trial Court cannot be held to be perverse or vitiated on account of any misreading of evidence. The findings of acquittal recorded by the trial Court are based on proper appreciation of evidence. Learned counsel for the appellant could not show that the findings are perverse or vitiated on account of any misreading of evidence on record.

[11]. In view of aforesaid, this Court finds no ground to interference in the judgment of acquittal by the trial Court and this appeal is found to be totally bereft of merits and the same is dismissed. Consequently, the application for grant of leave to appeal as well as the appeal is dismissed.

[12]. Since the appeal itself has been dismissed on merits, therefore, therefore, there is no necessity to pass any order on the application under Section 5 of the Limitation Act. The same is also disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

October 16, 2023

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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No