

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CRA-D-1935-DB of 2014  
Date of decision: 03.09.2015.

Reena Rani ..... Appellant.

Versus

State of Haryana and others ..... Respondents.

Coram: Hon'ble Mr. Justice S.S.Saron  
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. C.M. Munjal, Advocate for the appellant.

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S.S. Saron, J.

The appellant-Reena Rani has filed this appeal against the judgment and order dated 10.11.2014 passed by the learned Additional Sessions Judge, Ambala assailing the said order to the extent that respondents No.2 to 5 have been acquitted of the offences punishable under Section 307 read with Section 34 Indian Penal Code ('IPC' - for short) and Section 498-A IPC. In terms of the said judgment and order, the respondents No.2 to 5 have, however, been held guilty and convicted for the offences punishable under Sections 323, 324 and 406 read with Section 34 IPC.

We have heard learned counsel for the appellant and also perused the record of the learned trial Court which was requisitioned.

It may be mentioned that the learned counsel for the appellant initially submitted that he presses the appeal against the acquittal of respondents No.2 to 5 for the offence punishable under Section 420 IPC as well. However, he later submitted that the offence under Section 420 IPC may not be made out as respondents No.2 to 5 have been convicted for the offence

punishable under Section 406 IPC and the offences under Sections 406 and 420 IPC may be taken as mutually exclusive. Therefore, he submitted that he does not press against the acquittal of respondents No.2 to 5 for offence punishable under Section 420 IPC in this appeal. However, he would urge the same in the appeal (i.e. Criminal Appeal No.S-5000-SB of 2014 titled 'Rajender Kumar and others v. State of Haryana') filed by respondents No.2 to 5 against their conviction and sentence in case it is submitted by them that the offence under Section 406 IPC is not made out, in which case he would submit that the offence under Section 420 IPC is in any case made out. Therefore, he confines his submissions insofar as the acquittal of respondents No.2 to 5 for the offences under Sections 307 and 498-A read with Section 34 IPC are concerned.

FIR in the case has been registered on the basis of a typed written complaint dated 05.12.2005 (Ex. P7) made by Reena Rani (appellant) to the Superintendent of Police, Ambala against Rajinder Singh son of Siya Ram, Shri Siya Ram son of Shri Baru Ram, Nirmala Devi wife of Shri Siya Ram, residents of Jagdhari and Vinod Nehra son-in-law of Siya Ram resident of village Sadhora, District Yamuna Nagar (respondents No.2 to 5). The appellant stated that she was married with Rajender Kumar (respondent No.2) according to Hindu rites and ceremonies with fanfare at Marriage Palace, Barara on 15.2.2004. Her father and family had given sufficient dowry beyond their capacity in the marriage as she was the only daughter of her parents; besides, the in-laws of the appellant had represented that Rajender Kumar (respondent No. 2) was a good weight-lifter, was a graduate and had been selected directly as an Inspector in the Customs Department, but he was yet to join his duty.

Due to the said reasons, the father and family members of the appellant fulfilled all the demands made by the accused (respondents No.2 to 5) and gave all the dowry. According to their demand, a Maruti car was asked to be purchased in the name of Rajender Kumar and the bill etc. also, it was said, should be in his name. Accordingly, as per their asking, the family members of the appellant purchased a car from Jagadhri and gave it. The list of the dowry that was given was attached with the complaint.

After about one month of the marriage, Rajender Kumar, Siya Ram, Nirmala Devi and Vinod (respondents No.2 to 5) on the pretext of getting her to meet her family members came to her village Mannu Majra. At that time, they raised a demand of Rs.5.00 lacs from her father and family members. They said that they had arranged the remaining money, which was required and it was only after giving the money that Rajender (respondent No.2) would be able to join his duty. They also said that after some days they would return the money as their money had been with their relatives. The father and family members of the appellant had faith in what they were saying. Within 10-12 days her father from his home and from his relatives collected Rs.5.00 lacs. Then her father and maternal uncle Mai Chand came to Jagadhri and gave Rs.5.00 lacs to them, which they counted and put in the cupboard. She and the accused were present at home at that time.

The father of the appellant after some days came to meet her at her home at Jagadhri. She had by then come to know that Rajender Kumar (respondent No.2) had not been appointed on any job anywhere. He had lied and obtained Rs.5.00 lacs from her father. The appellant disclosed this to her father. When he made inquiries from them in this regard, they side tracked the

issue. They said that this was their job and not his. Her father returned to his home. When her father had left for his home, then all the accused gave her quite a beating and said that by disclosing this fact to her father, she had insulted them. Every person does everything for his daughter. They had also done so for their daughter. It was for the said reason that their son-in-law in sorrow and happiness, was with them. It is alleged that the appellant was then daily troubled and taunts were hurled at her throughout the day. They started ill-treating her. After some days, the appellant came to her parental home and disclosed everything to her mother and her brother's wife ('bhabhi'). They, however, made her understand and sent her back to her in-laws' place.

A son was born to Sandeep, brother of the appellant, on 03.03.2005. She had come for his prayer ceremonies to her parental home. She remained for one and a half months at Mannu Majra. Rajinder and Siya Ram (respondents No.2 and 3) then came to take her. Her father being happy with the birth of a grandson honoured them and sent her with them. After leaving, the accused (respondents No.2 to 5) said that her people at home did not know how to have dealings in giving and taking and now they had again insulted them. Her husband Rajender Kumar (respondent No.2) used to beat her while the other accused (respondents No.3 to 5) pretended to save her from him. She had though stayed home for the night at Jagadhri in September 2005, then Rajender (respondent No.2) started beating her by saying that she had insulted them. She raised an alarm of 'mar di mar di' and on hearing her noise, her father-in-law Siya Ram and mother-in-law Nirmala Devi also came. She also started beating her. During the night they drove her out from the home. She went to the house of her relative, namely, Surender and informed him of

all the happenings. Surrender rang up her parental home but her father was not at home. During the night, her mother Maya Devi and her uncle, i.e. father's younger brother Mahender Singh, both reached the house of Surrender at Jagadhri. They took her to Sabharwal Hospital and got her treated there. After treatment, they took her to their house at Mannu Majra.

After some days, the accused approached Mai Chand, the maternal uncle of the appellant and said that a mistake had been committed by them. From that day, they would not say anything to Reena (appellant) and would also return the amount of Rs.5.00 lacs. Her maternal uncle by getting them along came to village Mannu Majra. Their entire family got together and they (accused) apologized. Her family members made her understand and sent her to Jagadhari. For some months they kept her well.

Then her brother Sandeep Kumar and Nawab Singh on 02.11.2005 came to meet her at Jagadhri. She informed both of them of the unjustified troubling; besides, the taunts and beating meted out to her. When they asked the accused about this, they started saying that their sister did not know how to do any work and she did not do any work. Besides, she was recalcitrant in every work; therefore, some small threats were administered. However, both her brothers made an excuse and got her to Mannu Majra and she disclosed everything to her people at home. After her reaching home, her father-in-law started telling her father that now there would be no mistake. Her father said that he had informed all his relatives about the entire circumstances and he could not send the appellant without consulting them. On this, the accused Rajender, Siya Ram, Vinod and Nirmala Devi came to their house on 03.12.2005. At their house, Mai Chand, the maternal uncle of the appellant;

Lajja Ram, the mother's sister's husband ('masar') of the appellant; Jasmer Jainpur and their family's paternal younger brother and elder brother of the father of the appellant were present. They apologized before all of them and took her along.

The accused were taking the appellant in their car to Jagadhari and they had reached near village Alawalpur at about 7.30 p.m., then Rajender (respondent No.2) stopped the car and made her get down. Rajender Kumar, Siya Ram and Vinod got enraged and said that she had insulted them. They said that they would kill her and throw her in the fields and go back home. They on reaching would say that Reena had fled away from their house. It is alleged that her veil ('chunni') was removed and Rajender (accused No.2) tied a knot with it around her neck. Siya Ram and Vinod put her on the ground and started beating her. Her mother-in-law Nirmala also started beating her. She raised an alarm of 'bachao bachao'. Per chance her maternal uncle Mai Chand and Jasmer Jainpur came from behind in their car. They stopped their car and got her freed from them. Had they not come, then all four of them would have killed her. While leaving, all four of them said that she had been saved with her life on that day but on getting a chance they would take revenge. Saying this they left.

Jasmer Jainpur and her maternal uncle Mai Chand made her sit in their car and brought her to her home. It had become dark. Her father got her for treatment to Mullana Hospital on 4.12.2005. The doctor medically examined her. Copy of the MLR was attached. It is alleged that the accused by telling lies to the complainant and her family regarding Rajender being a Customs Inspector had taken Rs.5.00 lacs, sufficient dowry and threats of

intention to kill her were held out to her and they all had committed cheating and fraud; besides, criminal breach of trust. Action was asked to be taken and all her dowry articles given in the marriage were asked to be got recovered from the accused; besides, she be given justice.

On the basis of the said application, FIR Ex.P8 was registered. Police proceedings were recorded to the effect that on 05.01.2006, the above application after attestation by the Deputy Superintendent of Police, Ambala Cantt. was received at the police station through post. From the contents of the application, offences under Section 323, 324, 307, 498-A, 406, 420/34 IPC were found to be made out. After registration of a case (FIR) for the said offences, the SI/SHO by taking a copy of the FIR along with Constable Harish Kumar in a government vehicle No. HR-01M-4395 whose driver was Constable Joga Singh proceeded to Mannu Majra. The copies of the FIR as Special reports were sent to higher officers through EHC Dalel Singh. The proceedings had been recorded as per record. The police proceedings was signed by SI/SHO Dharamvir.

SI/SHO Dharamvir Singh (PW11) on 11.01.2006 along with other police officials went to village Mannu Majra, Police Station Barara, District Ambala and recorded statements under Section 161 of the Code of Criminal Procedure ('Cr.P.C.' - for short) of Gurmej Singh (PW10) (father of the appellant), Maya Devi (given up by the Public Prosecutor being unnecessary) (mother of the appellant), Sandeep (PW1) (brother of the appellant), Mai Chand (PW2) (maternal uncle of the appellant) and Mahinder Singh (PW6) (an uncle of the appellant); besides, Reena Rani was joined with the investigation.

She reiterated the facts made by her in her application Ex.P7. SI/SHO

Dharamvir Singh along with Mai Chand then reached the place of occurrence in village Alwalpur and prepared rough site plan Ex.P9 on the demarcation of Mai Chand (PW2). Then the statements of Surender Singh, Lajja Ram and Jasmer Singh were recorded on 13.01.2006 at Police Station Barara. The investigation of the case was thereafter transferred to CIA, Ambala on 22.02.2006.

DSP Jai Parkash (PW12) was posted as In-charge, CIA-II, Ambala on 22.02.2006 and investigation of the present case by orders of the Superintendent of Police, Ambala was entrusted to him. He examined the file and summoned both the parties on 24.02.2006 and tried to settle the matter amicably. A 'panchayat' was convened in this regard. Thereafter, on the basis of the statement of Randhir Singh, the offence under Section 307 IPC was deleted. The accused Rajender (respondent No.2) was produced before DSP Jai Parkash in CIA-II, Ambala (PW12) on 09.03.2006. He was joined in the investigation and interrogated. During interrogation, apart from other facts, he disclosed that the Maruti car given to him by his father-in-law had been parked at the house of his friend Shakti Singh resident of Bhiwani and the gold jewellery had been concealed in village Garhi Birbal, District Karnal at the house of his maternal uncle. The same could be got recovered by him by demarcating the places. His disclosure statement Ex.P1 was reduced into writing which he signed and it was attested by ASI Ram Jawari (PW3) and HC Naresh Kumar. Then the accused Rajender (respondent No.2) was produced before the Court of learned Illaqa Magistrate and was taken on two days police remand. He was put behind bars on return to the police station. Then, he was taken out of the lock up on 10.03.2013 and interrogated. He during

interrogation retracted from his earlier disclosure statement and made a fresh disclosure statement in which apart from other facts he disclosed that the Maruti car and the dowry articles had been kept concealed at his residence at Basant Nagar, Jagadhri which he could get recovered by demarcating the place. His disclosure statement Ex.P2 was reduced in writing which he signed and it was attested by the witnesses. Information was sent to the complainant party asking them to remain present at the house of the accused at the time of recovery.

The police party along with the accused Rajender (respondent No.2) reached his house at Basant Nagar, Jagadhri. He led the police party and got recovered the dowry articles and also the white colour Maruti car with registration No.HR-02-L/2076. Reena Rani (appellant) and Mahinder Singh identified the recovered articles as the dowry articles. The same were taken in possession vide memo Ex.P5 which was attested by the witnesses. The statements of the witnesses were recorded. On return to the police station, the accused was put behind bars and the case property was deposited with the MHC of Police Station Barara. The accused Rajender was produced before the learned Illaqa Magistrate on 11.03.2006 and he was sent to judicial custody.

The accused Siya Ram, Nirmala Devi and Vinod Kumar (respondents No.3 to 5) were produced before DSP Jai Parkash (PW12) on 13.03.2006. They were joined in the investigation of the case and released on bail as they were already on anticipatory bail vide orders of the learned Additional Sessions Judge, Ambala.

The police file was sent to the SHO, Police Station, Barara for further necessary action. SI/SHO Dharamvir Singh (PW11) on completion of

the investigation prepared final report under Section 173 Cr.P.C. on 22.02.2006 (sic. 22.03.2006). It was filed in the Court of the learned Chief Judicial Magistrate, Ambala on 03.04.2006/20.04.2012 alleging commission of offences under Sections 323, 324, 406 and 498-A read with Section 34 IPC. The learned Chief Judicial Magistrate, Ambala in his order dated 16.05.2012 while considering the case for committing it to the Court of learned Sessions Judge, Ambala, *inter alia* observed that the complainant had subsequently moved an application for committing the case to the Court of Sessions in view of the addition of Section 307 IPC, which had been decided by a separate order of the same date. In terms of the separate order that had been passed cognizance was taken against the accused for committing the offence under Section 307 IPC. Since the offence under Section 307 IPC was exclusively triable by the Court of Session, therefore, the case was committed to the said Court for trial.

The learned Additional Sessions Judge, Ambala to whom the case was assigned on 31.08.2012 heard arguments on the point of charge. In terms of the order passed on the said date, it was observed that it had been specifically pleaded by the complainant (appellant) that on 03.12.2005 the accused Rajender Kumar, Siya Ram, Vinod and Nirmala Devi came to her parental house and tendered apology. Thereafter, her parents again sent her to her matrimonial home. When they were going to Jagadhari by car, near village Alwalpur, Rajender Singh suddenly stopped the car and made the complainant (Reena) to get down from the car. He snatched her 'dupatta' and strangulated her. Siya Ram, Vinod and Nirmala Devi also started beating her. It is also observed that the complainant was got medically examined from Mullana

Hospital and the MLR of the complainant, placed on the file, clearly showed that there was an abrasion on her neck. Accordingly, vide order passed on 31.08.2012, respondents No.2 to 5 were charge-sheeted on the allegations that on 03.12.2005 within the area of Police Station Barara, they all in furtherance of their common intention voluntarily caused simple hurt with blunt weapon to Reena Rani and thereby committed an offence punishable under Section 323 read with Section 34 IPC. Secondly, on the same date and within the same area, they all in furtherance of their common intention caused simple hurt with sharp weapon to the complainant and thereby committed an offence punishable under Section 324 read with Section 34 IPC. Thirdly, on the same date and within the same area, they all in furtherance of their common intention strangled the complainant with a 'dupatta' (veil) with the intention to kill her and thereby committed an offence punishable under Section 307 read with Section 34 IPC. Fourthly, during the period from February, 2004 to December, 2005, they all entrusted with the dowry articles belonging to the complainant at the time of her marriage with the accused Rajender Singh, dishonestly misappropriated the said articles and thereby committed an offence of criminal breach of trust under Section 406 IPC read with Section 34 IPC. Fifthly, during the same period, within the same area Rajender Singh being husband of the complainant and Siya Ram, Nirmala Devi and Vinod Kumar being relatives of accused Rajender Singh subjected the complainant to cruelty, thereby coercing her to meet an unlawful demand of dowry and thereby committed an offence punishable under Section 498-A IPC.

The prosecution, in order to establish its case, examined as many as 13 witnesses; besides, tendered documents in evidence.

The statements of the accused in terms of Section 313 Cr.P.C. were recorded and the substance of the allegations on record were put to them. They stated that they were innocent and had been falsely implicated in the case. Each of them had not demanded any dowry nor maltreated Reena (appellant) on that account. They had never demanded any money from the complainant (appellant) or her family members neither any assurance was given with regard to the appointment of Rajender as a Customs Inspector. The complainant was kept nicely. In defence, Sardara Ram (DW1) and Megh Shayam (DW2) were examined. Sardara Ram (DW1) is the maternal uncle of Rajender (accused) and Megh Shayam (DW2) deposed regarding the 'panchayat' that was convened at village Topra Kalan, the matrimonial home of the parties, with regard to the matrimonial dispute between Rajender and his wife Reena.

The learned Additional Sessions Judge, Ambala vide her impugned order dated 10.11.2014 convicted respondents No.2 to 5 for the offences punishable under Sections 323, 324 and 406 read with Section 34 IPC. They were acquitted of the offences punishable under Sections 498-A and 307 IPC.

The learned counsel for the appellant has contended that apart from the offences for which respondents No.2 to 5 have been convicted and sentenced, the offences under Sections 498-A and 307 IPC are also made out against respondents No.2 to 5 for which they have been wrongly acquitted. It is submitted that respondents No.2 to 5 had subjected the complainant to cruelty inasmuch as they harassed her with a view to coercing her to meet unlawful dowry demands. Besides, a reference has been made to the order dated

31.08.2012 passed by the learned Additional Sessions Judge, Ambala against the order dated 16.05.2012 passed by the learned Chief Judicial Magistrate, Ambala whereby revision against the taking of cognizance for the offence under Section 307 IPC was dismissed. It is submitted that this Court in terms of order dated 06.11.2012 passed in Criminal Revision No.3518 of 2012 dismissed the revision against the order dated 31.08.2012 of the learned Additional Sessions Judge, Ambala as withdrawn from which it was clear that the charge framed against the accused for the offence under Section 307 IPC was upheld by this Court. A reference is also made to the deposition of Dr. Yash Pal, Medical Officer, General Hospital, Ambala City (PW7), who was posted as such at CHC, Mullana on 04.12.2005 and he medico legally examined Reena, which mentions that there was an encircled abrasion of 3 cm around the neck for which x-ray was advised. This it is submitted clearly makes out the intention of the accused to commit murder, which intention did not materialize and, therefore, it is to be taken that the offence of attempt to murder was made out.

The case is to be considered only as to whether the offences under Sections 498-A and 307 IPC are made out. As regards, the offence under Section 498-A IPC it may be noticed that the learned trial Court held that the root cause of differences between the parties appeared to be concealment of the fact that Rajender Kumar (respondent No.2) was selected as a Customs Inspector and the accused (respondents No.2 to 5) had borrowed a sum of Rs.5.00 lacs from the appellant's father and did not return the same. The learned trial Court held that no offence under Section 498-A IPC was made out.

It may be noticed that in order to attract the provisions of Section 498-A IPC so as to make out an offence thereunder, it is to be established that the husband or relatives of the husband of the woman had subjected the woman to cruelty and in case he does so, he is liable for punishment with imprisonment for a term which may extend to three years and shall also be liable to fine. Therefore, if a husband subjects his wife to cruelty, he is to be punished with imprisonment for a term which may extend to three years and is also liable to pay fine. The 'Explanation' to Section 498-A IPC defines 'cruelty' for the purpose of the said Section to mean (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. The first part of clause (a) of the aforesaid 'Explanation' envisages that cruelty means any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide. In the present case, there is no allegation of there being any wilful conduct which can be said to be of such a nature which would drive the appellant to commit suicide. Besides, there is no wilful conduct which can be said to be of such a nature as was likely to drive the appellant to commit suicide or cause grave injury or danger to her life, limb or health (whether mental or physical). This in fact is not the case of the prosecution even. Clause (b) of the 'Explanation' to Section 498-A IPC for the purpose of 'cruelty' means harassment of the woman where such harassment is with a view to coercing

her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. There is no no such harassment shown of the appellant which can be said had been with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or was on account of failure by her or any person related to her to meet such demand. The amount of Rs.5.00 lacs that is alleged to have been taken by respondents No.2 to 5 was not with a view to coerce the appellant or any person related to her to meet any unlawful demand for any property or valuable security and neither was it on account of failure by her or any person related to her to meet such demand. An amount of Rs.5.00 lacs was taken by stating that Rajender Kumar (respondent No.2) was to join his duty as a Customs Inspector for which money was needed. It was represented that they had the balance money but they needed Rs.5.00 lacs as their money was with their relatives; besides, it was also stated that it would be returned. Therefore, an amount of Rs.5.00 lacs which was taken was not for or in connection with harassment of the appellant with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security and neither is it on account of failure by her or any person related to her to meet such demand. Therefore, in the circumstances, the offence under Section 498-A IPC is not made out although any other offence may or may not be made out.

Insofar as the offence under Section 307 IPC is concerned, the case of the appellant is that Rajender Kumar (respondent No.2) tied a knot with her 'chunni' (veil) around her neck. Dr. Yash Pal, Medical Officer (PW7) medico-legally examined the appellant on 4.10.2005 i.e. on the next day of the

incident that had occurred on 03.12.2005. The doctor found five injuries on the person of the appellant. Injury No.1 is mentioned as an encircled abrasion of 3cm around the neck and x-ray was advised. The probable duration of all the injuries, it is mentioned, was within 24 hours. The nature of injuries No.2, 3 and 5, it was said, was simple and that of injuries No.1 and 4 was kept pending for x-ray report. The weapon used for injuries No.1 to 3 and 5, it was mentioned, was blunt and for injury No. 4, it was sharp. In cross-examination, Dr. Yash Pal (PW7) *inter alia* states that the patient, i.e. the appellant, was brought by her father Gurmej Singh. Injuries as observed in the MLR, it was stated, could have been sustained at about 5:00-6:00 a.m. on 04.12.2005. The x-ray was advised for injury No.1 to rule out any soft tissue injury on the neck. It is stated as correct that till the date of his deposition in Court neither any x-ray film nor any x-ray report had been shown to him. It is further stated that injury No.1 on the person of Reena was a superficial injury and was simple in nature. It is stated as correct that he had not mentioned the colour of abrasion which could ascertain the age of the same. It is further stated that injury No.1 could be self inflicted/accidental. It is stated as correct that the same was possible with a friendly hand. The possibility of other injuries on the person of Reena (appellant) being self suffered could not be ruled out. In the absence of x-ray report with regard to injury No.4, the same was simple in nature.

The above deposition of Dr. Yash Pal (PW7), who medico-legally examined Reena (appellant), does not mention the nature of injury in respect of injury No.1, which is an encircled abrasion of 3 cms. around the neck. Therefore, the intention to commit murder cannot be gathered from the said injury that was inflicted and on the basis of which the case for attempt to

murder within the ambit of Section 307 IPC being committed by respondents No. 2 to 5 it is urged was made out.

In Parsuram Pandey v. State of Bihar, (2004) 13 SCC 189, it was said that to constitute an offence under Section 307 IPC two ingredients of the offence must be present; i.e. (a) an intention of or knowledge relating to commission of murder; and (b) the doing of an act towards it. For the purpose of Section 307 IPC what is material is the intention or the knowledge and not the consequences of the actual act done for the purpose of carrying out the intention. The section clearly contemplates an act which is done with the intention of causing death but which fails to bring about the intended consequence on account of intervening circumstances. The intention or knowledge of the accused must be such as is necessary to constitute murder. In the absence of intention or knowledge which is the necessary ingredient of Section 307 IPC, it was held that there could be no offence of attempt to murder. Intent which is a state of mind cannot be proved by precise direct evidence, as a fact it can only be detected or inferred from other factors. Some of the relevant considerations may be the nature of the weapon used, the place where injuries were inflicted, the nature of the injuries and the circumstances in which the incident took place.

In the present case, the nature of injuries on the person of the prosecutrix have been mentioned by Dr. Yash Pal (PW7) to be simple in nature. In respect of injury No.1, x-ray was advised and no x-ray was done and even if it was conducted, its report was not shown to the doctor. Besides, it is mentioned by Dr. Yash Pal (PW7) that injury on the person of Reena (appellant) was superficial and simple in nature. It was also mentioned that

injury No.1 could be self-inflicted/accidental, besides, the same was possible with a friendly hand. Therefore, it is to be noticed that the prosecution case regarding the offence punishable under Section 307 IPC, which is said to have been committed, is on the basis of injury No.1 which does not clearly bring about the intention or the knowledge to commit the offence of attempt to murder. The medico-legal examination that was conducted in respect of Reena (appellant) was intended to enable the investigating agency and the Court to ascertain the nature of the offence. The doctor was required to opine that injury No.1 was one or the other of the type recognized by the IPC for a given offence. The doctor has opined injury No.1 to be simple from which the offence under Section 307 IPC cannot be said to be made out. Even otherwise no state of mind has been shown, even if any other offence may or may not be made out, that the accused had intended to commit the murder of the appellant which did not materialise and consequently the offence under Section 307 IPC was made out. Nothing has also been brought on record to show that respondents No.2 to 5 had any knowledge that the alleged act said to be done by them would in any manner result in her death.

The reliance placed by the learned counsel for the appellant on the order dated 31.08.2012 passed by the learned Additional Sessions Judge, Ambala against the order dated 16.05.2012 passed by the learned Chief Judicial Magistrate, Ambala whereby the revision petition against the taking of cognizance for the offence under Section 307 IPC was dismissed is of no consequence. Besides, the order of this Court dated 31.08.2012 passed in Criminal Revision No.3518 of 2012 is also of no consequence as the revision petition was dismissed as withdrawn. The interim orders that are passed during

the course of the trial do not determine the outcome of the trial which is considered and decided on the basis of evidence and material adduced by the parties on the record after trial.

The learned trial Court noticed that the appellant in her complaint (Ex.P7) had not mentioned that Rajender Kumar (respondent No.2) had tried to strangle her, besides, she also named Vinod Kumar and alleged that he had put the 'chunni' around her neck, which fact was not so stated in the complaint. It was further noticed that the appellant in her statement in Court mentioned that Rajender had put a knot of the 'chunni' and Siya Ram and Nirmala (respondents No.3 and 4) gave her a beating. The accused Siya Ram, it is alleged, had attacked her with some weapon which could be some knife or some other weapon. She suffered an injury on her left arm and was rescued by her maternal uncle Mai Chand and Jasmer, who had reached there in their car. A reference was made to the inquiry conducted by Shri Mahender Singh the then DSP, Ambala Cantt. (PW13) and according to his report (Ex.P10) injury marks were observed. He (PW-13) had no ill-will against any party. A reference was made to the deposition of Dr. Yash Pal (PW7) who had stated that injury No.1 could be suffered by friendly hands. Injury No.1 on the person of Reena (appellant) was a superficial injury and simple in nature. The doctor had not mentioned the colour of abrasion which could ascertain the age of the injury. Injury No.1 could be self-inflicted/accidental. He advised x-ray for injury No.1 to rule out any soft tissue injury in the neck. No x-ray report had been shown to him. It was accordingly held that no offence under Section 307 IPC was made out.

The said reasoning given by the learned the trial Court does not

suffer from any ambiguity and neither is it incorrect so as to warrant interference by this Court. Therefore, the order of acquittal of respondents No.2 to 5 for the offence under Section 307 read with Section 34 IPC is correct.

In the circumstances, the appeal against acquittal of respondents No.2 to 5 for the offences punishable under Sections 307 and 498-A read with Section 34 IPC is dismissed. Insofar as acquittal of respondents No. 2 to 5 for the offence under Section 420 IPC is concerned, in case the offence under Section 406 IPC it is urged is not made out, the appellant may, if so advised, submit that the offence under Section 420 IPC is made out. It is made clear that nothing stated hereinabove shall be construed as an expression of opinion on merits of the appeal filed by respondents No.2 to 5, i.e. Criminal Appeal No.S-5000-SB of 2014 against their conviction and sentence and the same is to be considered on the basis of evidence and materiel on record and uninfluenced by any observation made herein.

(S.S. Saron)  
Judge

(Rekha Mittal)  
Judge

03.09.2015

PARAMJIT/A.Kaundal