

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

CRA-S-5011-SB-2014 (O&M)

Date of decision : 07.12.2015

Ranjeet Kaur

...Appellant

Versus

Jashwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. KPS Virk, Advocate for the appellant.

JITENDRA CHAUHAN, J.

The instant criminal appeal has been filed by the complainant-appellant, impugning the judgment dated 24.09.2014, passed by the learned Additional Sessions Judge, Kaithal (for short, 'the trial Court'), whereby, the accused-respondents have been acquitted of the charges in case FIR No.9 dated 19.01.2013, registered under Sections 323, 328, 406, 498-A, 506 of the Indian Penal Code, at P.S. Cheeka.

Before proceeding further, it is worthwhile to notice that in the title of the impugned judgment dated 24.09.2014 as well as in the memo of parties annexed with the present appeal, the names of the respondent Nos.1 and 2 herein, have been reflected as Jashwinder

Singh and Jangir Singh, respectively, whereas, in body of the impugned judgment, these have also been noticed as Jaswinder Singh and Jagir Singh, respectively, at some places. Therefore, in order to avoid any confusion, above accused-appellants would be referred to as Jashwinder Singh and Jangir Singh, in the present judgment.

Brief facts of the case in hand, as recorded by the learned trial Court in paragraph Nos.2 to 6 of the impugned judgment, read as under:-

“2. The brief facts of the prosecution case are that on 19.01.2013, an application bearing No. 3400-Peshi dated 14.12.2012 and 6-P dated 03.01.2013 was received in the police station through post, according to which, legal action was sought against Jaswinder Singh son of Jangir Singh, Jangir Singh son of Hazara, Balbir Kaur wife of Jangir Singh, residents of village Diwana, Tehsil Pehowa, District Kurukshetra, at present residents of near Prachi Mandir, Pehowa District Kurukshetra, Rajinder Kaur @ Deepender Kaur @ Bobi daughter of Jangir Singh wife of Trilochan Singh, Trilochan Singh son of Ajit Singh residents of village Gladva, presently residents of near Gurudawara Pehowa, District Kurukshetra. While giving details of the facts, it was stated that the marriage of the

complainant with Jaswinder Singh was solemnized on 17.01.2011 at village Theh Newel, Tehsil Guhla District Kaithal, as per Sikh rites and ceremonies and out of this wedlock, a female child namely Malkeerat was born. Accused No.1 is husband of the complainant, accused No.2 is father-in-law of the complainant, accused No.3 is mother-in-law of the complainant, accused No.4 is sister-in-law of the complainant and accused No.5 is Nandoi (husband of sister-in-law) of the complainant. Her father had spend a sum of Rs. 7,00,000/- in the marriage beyond his capacity. All these articles were given for the use of complainant and after marriage, complainant and accused No.1 started living as husband and wife at Pehowa but after some time, accused No. 4 and 5 started taunting her that they wanted to send her husband abroad and for this purpose, they needed money but the settled amount has not been paid by her. The complainant tolerated all of this, only to secure her future with accused No.1 and thereafter, complainant and accused No.1 got settled at village Diwana, Dera Jangir Singh and remained there for three months, where also, accused No. 4 and 5 used to come and taunt her on the pretext that they have to

settle accused No.1 abroad, so, either she should bring Rs. 10,00,000/-, otherwise they would sell the car for sending her husband abroad. Thereafter, she came to her village Theh Newal and narrated the whole story to her father, upon which her father said that he has recently spent a sum of Rs. 50,00,000/- in the marriage and now, he has not sufficient amount with him and after persuasion, sent her to her matrimonial home, so that everything may be alright, after some time.

3 *After some time, accused persons harassed her for bringing cash amount and did not provide meals to her. The accused used to tell her that until and unless she would bring Rs. 10,00,000/-, they will not allow her to live peacefully. On this, she narrated the whole story to her parents on telephone but her father did not fulfill their demand of dowry and on 20.05.2011, accused gave poison to her and she was got admitted at Mission Hospital, Pehowa and was discharged on 21.05.2011. Thereafter, a panchayat was convened and matter was compromised, in which a sum of Rs. 2,00,000/- was given to the accused on 13.06.2011 in the presence of Mahesh Kumar, Sarpanch and Nishan Singh son of Gahal Singh.*

Thereafter, when she was pregnant, accused used to give her beatings and demanded a sum of Rs.5,00,000/- and jewellery on the birth of son. As no fruitful result came out even after convening so many panchayats at the home of accused, therefore, she had to move an application to the police station on 29.06.2012, upon which, accused persons were called and they compromised the matter. Thereafter, she came to her matrimonial home and on 25.09.2012, female child was born to her but accused left her and her daughter, in Kumar Nursing Home, Pehowa with an intention to let them die, due to improper treatment. However, keeping in view of her seriousness, she was taken to Amar Hospital, Patiala for proper treatment by her father. Thereafter, after some days, panchayat was convened at the house of accused by her father and took her in her matrimonial home but despite this, accused persons again started demanding cash and jewellery saying that until and unless she would not bring the cash and jewellery, which they were supposed to receive on the birth of a male child, they would not allow her to live peacefully, in her matrimonial home but her father was unable to fulfill their demands. Due to

this, she was detained illegally in a room on 18.11.2012 for whole night and at the instance of accused Rajinder Kaur, she was not given meals and her father was called through telephone.

4 On 20.11.2012, her father came and at that time all accused were present in the house but they did not disclose anything regarding her whereabouts and on his repeated asking, they disclosed that she and her daughter were locked up in a room and until and unless their demand of Rs.5,00,000/- and jewellery etc. is not fulfilled, they would not keep her in their house. Thereafter, she was taken to Guhla hospital by her father, for treatment for the injuries caused by her mother-in-law and sister-in-law. Thereafter, her father told accused persons that as he could not fulfill their demands, so they should return the entire dowry articles entrusted to them but accused refused to return the same and threatened that if any action is taken, they would kill them. On 08.12.2012, on this application, investigation was commenced by ASI Jaibhagwan In-charge, Women Cell and on finding making of offences punishable under Sections 323, 328, 406, 498A, 506 IPC, present case was got registered and investigation

was commenced by SI/SHO. During investigation, statements of witnesses were recorded.

5 On 20.01.2013, Marriage Certificate and photos were produced by Man Singh son of Pritam Singh resident of Theh Newal, which were taken into police station vide recovery memo. Thereafter, investigation was commenced by SI Prithvi Raj. During investigation, on 06.02.2013, accused Jaswinder was arrested and on the demarcation of accused, dowry articles were recovered, which were identified by the complainant vide identification memo, over which, complainant, accused and lady Constable Suman Devi appended their signatures. Site plan of the place of recovery was prepared. Statements of witnesses were recorded. Accused was lodged in lock up whereas dowry articles were deposited in Malkhana. On 17.02.2013, accused, on interrogation, suffered disclosure statement that his marriage was solemnized on 17.01.2011 and he had got recovered the dowry articles. Besides this, his father-in-law Maan Singh had given gold ornaments to him, his father and mother, of about 32 tola, which were lying with his parents. Verna vehicle has been concealed in the house of his maternal uncle at

Kundanpur Lukhi, District Kurukshetra, and besides him, nobody had knowledge about it and he can get recovered the same. His parents were residing in a rented house at Rishikesh, which address he does not know but he knows its location. Disclosure statement was recorded, over which accused and witnesses put their signatures. On production in the court, two days police remand of accused was granted by the Court. During investigation, on 08.02.2013, on interrogation, accused again suffered disclosure statement which was recorded separately, over which accused and witnesses appended their signatures and got recovered Verna vehicle bearing registration No. HR 41D-4584 which was given in his marriage, from the wheat fields near the vacant house of Surender Kaur at Dera Hoshiarpur, which was not in a working condition and was taken into police possession vide recovery memo, over which, witnesses and accused put their signatures. Site plan of the place of recovery was prepared and statements of witnesses recorded. Accused was lodged in lock up and case property was deposited with MHC. On 09.02.2013, accused was produced in the court, from where, he was remanded to judicial custody.

6. *On the same day, an application was moved to Saraswati Mission Hospital, Pehowa for taking the medical record of complainant Ranjit Kaur and got CR No. 751 dated 20.05.2011 and MLR Sr. No. 1102 dated 20.05.2011 of Ranjit Kaur. On 16.02.2013, accused Jangir Singh was arrested and on interrogation, on 17.02.2013, accused suffered disclosure statement in P.S. Cheeka, which was separately recorded over which, accused and witnesses appended their signatures. Accused was produced in the court of Sh. Devender, learned Duty Magistrate, Kaithal from where five days police remand of accused was granted. During investigation, neither jewellery was got recovered from accused nor wife of accused Balbir was arrested. On 20.02.2013, accused suffered disclosure statement to the effect that the marriage of his son Jaswinder Singh was solemnized with Ranjit Kaur on 17.02.2011 according to Sikh rites and ceremonies and at the time of marriage, the father of complainant gave dowry and his son had got recovered 43 items of dowry including utensils, T.V., Fridge and furniture etc. Besides this, father of complainant gave one gold ring of 4 grams, one gold*

chain of 2.50 grams, one gold Kara weighing 2 tola to his son, two gold bangles weighing 3 tola, one gold chain with locket weighing 2.5 tola, one gold ring of ½ tola to his wife Balbir Kaur and one gold chain weighing 2 tola and one Kara weighing 2 tola and one gold ring of ½ tola were given to them in dowry. Besides this, the father of complainant gave motorcycle make Pulser and one gold Kara of 2.5 tola and a sum of Rs.11,000/- to his son-in-law Trilochan Singh and one gold set weighing 3 tola was given to his daughter Rajinder Kaur. Fifteen gold rings of ½ tola each were given to their relatives. His son-in-law Trilochan Singh sold the motorcycle after about two months of the marriage. Motorcycle and Verna vehicle were got recovered which were given by the father of complainant. The jewellery which was given to their relatives by the father of complainant was lying with them. The jewellery which was given to him, his wife, and his son weighing about 19 tola was lying with his wife Balbir Kaur. He along with his wife Balbir Kaur, his son Jaswinder Singh, his daughter Rajinder Kaur and son-in-law Trilochan had put pressure upon the complainant many times for bringing a sum of Rs.

10,00,000/-. Disclosure statement of accused was prepared over which, accused and witnesses appended their signatures. On 21.02.2013, accused was produced and he was released on bail.”

As accused-respondent, Balbir Kaur, could not be arrested, challan was prepared against accused-respondents Jashwinder Singh and Jangir Singh in the first instance, which was presented in the Court on 29.03.2013. Thereafter, on the directions of the Court, accused-Balbir Kaur was joined in the investigation, recovery was effected and she was released on bail by this Court on 02.07.2013. Subsequently, supplementary challan against Balbir Kaur was also prepared and presented.

Thereafter, charges were framed against the accused persons for the commission of offences punishable under Sections 406, 498-A, 328/34, 323/34 and 506 of the Indian Penal Code, to which the accused pleaded not guilty and claimed trial.

In order to prove its case against the accused, the prosecution examined Dr. Arun Kumar Arora as PW1, Dr. V.K. Gupta as PW2, Ranjit Kaur, the complainant as PW3, Ramesh Kumar as PW4, SI Shri Bhagwan as PW5, lady Constable Suman as PW6, ASI Suresh Kumar as PW7, SI Kashmir Singh as PW8, EASI Shamsheer Singh as PW9, ASI Tej Pal as PW10, Maan Singh, the father of the complainant as PW11, SI Prithvi Raj and Investigating Officer as PW12, apart from tendering various documents in evidence.

The accused were examined under Section 313 Cr.P.C., wherein, they denied the prosecution version and pleaded false implication. In defence, the accused examined Ajit Singh as DW1, Constable Pardeep Kumar as DW2, and placed on record the writing in respect of panchayat agreement, Ex.DA, photocopy of statement of Maan Singh recorded under Section 161 Cr.P.C. again as Ex.DA and complaint made by accused Jangir Singh against his son, daughter-in-law and parents of his daughter-in-law as Ex.DB. Publication in the newspaper and letter No.1758 dated 26.06.2013, were also placed on record as Marks DB and DC, respectively.

After hearing learned counsel for the parties and perusing the evidence on record, the learned trial Court acquitted the accused-respondents of the charges framed against them. Hence, the present appeal.

I have heard learned counsel for the appellant and carefully perused the file.

In this case, the complainant had initially alleged that she had been administered poison by the accused. To substantiate the allegation, the prosecution examined the complainant, PW3, Ranjit Kaur, PW1, Dr. Arun Kumar Arora, and PW2, Dr. V.K. Gupta. As per the statement of PW1, Dr. Arun Kumar Arora, the complainant was suffering from acute gastritis which means infection or inflammation in the stomach. He prepared the medical report, Ex. PA in which there was no mention of foul smell coming from the mouth of the

complainant and her blood pressure was recorded as 120/80. Moreover, it was mentioned that her condition was drug induced. On the other hand, PW-2 Dr. V.K. Gupta prepared case summary; Ex. PB on 14.02.2013 at the asking of the police, approximately after two years of the date of the alleged occurrence wherein, it was mentioned that she had consumed some suspected poisonous substance and slight smell was coming from her mouth. In this way, the medical reports submitted by the medical witnesses are inconsistent. The treatment record, Ex.PA, which is the original record, had overwriting and cuttings at many places. There was no mention of any poisonous substance either, rather, it was categorically mentioned that the patient was suffering from acute gastritis which was drug induced. In case, the complainant had narrated the story of poisoning to the doctors, in that eventuality, the treating doctor certainly would have disclosed this fact to the police and would have also sent the vomit material for chemical analysis. As per the statement of PW2, Dr. V.K. Gupta, he had sent the ruqa to the police on the same day at 6:30 pm, however, no such document is there on the case file. Further, if he had been aware that it was a suspected case of poisoning, in that case, he ought to have sent the vomit material for chemical analysis or at least preserve the same. Thus, the allegation of poisoning is not proved in the instant case.

The second allegation pertains to Section 406 IPC wherein two essential ingredients were required to be proved, i.e. entrustment of dowry articles and misappropriation of the same. So far as this

allegation is concerned, neither in the complaint Ex. PD nor in the complainant's statement as a witness, it is asserted that she demanded her Istridhan back from the accused persons and the accused refused to return the same. Moreover, the defence counsel, placing reliance on the cross-version of the complainant, Ranjit Kaur has argued that she had not stated that dowry was ever demanded or given. Even if the complainant's version was to be admitted *in toto*, even in that case, the articles given to the accused persons were customary gifts and not covered under the definition of dowry.

As far as the allegation of demand of dowry is concerned, it was based on the complaint Ex.PD and supported by the testimonies of the complainant, Ranjit Kaur and PW-11, Maan Singh, her father. They are the star witnesses in this case but there are material discrepancies in their versions. The statement of PW-11, Maan Singh contains mostly the version which he must have heard from his daughter. Moreover, he has tried to make material improvements and exaggerations in his statement. From his statement, it is proved that at the time of marriage of the complainant, he had total Rs. 40 lacs in his possession but it is his version that he spent Rs. 50 lacs on the marriage. Furthermore, it was the version of the complainant and her father that one Verna car and two motorcycles were given to the accused persons but merely from the photographs, it cannot be presumed that these articles were given, especially in light of the fact that none of these vehicles had been registered in the name of the

complainant or her husband. During investigation, the disputed Verna car was recovered by the police on the disclosure statement of the accused, Jashwinder Singh. In fact, these vehicles were registered in the name of accused Jangir Singh and later on, those were got released on Sapurdari by him. There is no evidence on the case file to show as to how these vehicles were actually secured or purchased by the complainant or her family. Therefore, there is nothing on record to substantiate the contention that these vehicles were given to the accused persons in dowry.

As stated above, the version of PW-11, Maan Singh on material aspects is an exaggeration. His version of giving Rs. 2 lacs in cash to the accused also does not match with the version of the complainant and the alleged witness in whose presence the money was allegedly handed over. There are numerous improvements in the version of this witness. It was his own version that the articles which were given to the accused, Jashwinder Singh were customary and not part of Istridhan and he has deposed against the accused Jangir Singh and Balbir Kaur only. Meaning thereby, the stand taken by the defence that the present litigation was a tool to pressurize the accused Jangir Singh and Balbir Kaur to transfer their property in the name of the complainant and her husband, cannot be said to be misconceived. The rift between accused, Jashwinder Singh and his father Jangir Singh is clearly proved. The conduct of the complainant, her father and her husband, accused Jashwinder Singh and the fact that immediately after

marriage, the complainant and her husband started residing at an agricultural farm at village Diwana, convening of Panchayat as reflected in the compromise deed Ex.DA, are the circumstances which raise serious questions against the case of the prosecution.

In view of the above discussion, this Court feels that the prosecution has failed to bring home guilt against the accused-respondents and the learned trial Court has rightly acquitted them of the charges framed against them.

Thus, this Court does not find any ground to interfere with the impugned judgment, which has been passed after proper appreciation of evidence on record and application of judicial mind.

Consequently, the present appeal fails and the same is hereby dismissed.

07.12.2015
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(JITENDRA CHAUHAN)
JUDGE