

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. A-169-MA of 2015

Date of Decision : March 26, 2015

State of Haryana

....Applicant

Versus

Nawab Singh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Randhir Singh, Addl. Advocate General, Haryana

T.P.S. MANN, J.

The State has filed the present application under Section 378(3) Cr.P.C for grant of leave to appeal against the judgment dated 29.9.2014 passed by the Additional Sessions Judge, Karnal, whereby both the respondents were acquitted of the charges under Sections 498-A, 406, 323 and 313 read with Section 34 IPC.

The facts leading to the filing of the present application are that on 10.12.2010, complainant Harvinder Kaur was married to Nawab Singh respondent. The parents of the complainant had spent a sum of Rs.17 lakhs on the marriage, besides giving a sum of Rs.6 lakhs in cash to Nawab Singh for purchasing a car. After the marriage, the complainant and Nawab Singh lived as husband and wife, but no child was born from their wedlock. Prior to the marriage of the complainant, Nawab Singh respondent was married to Manjit Kaur, buq of the complainant. Said Manjit Kaur died on 4.8.2010 on account of cancer. From the wedlock of Nawab Singh with Manjit Kaur, there were two children. According to the complainant, Nawab Singh and his mother

Raj Kaur were greedy persons, who were not happy with the dowry articles and a few days after the marriage, had started taunting and mis-behaving with her by saying that she had not brought sufficient dowry and the articles brought by her were of inferior quality, due to which their image had been tarnished in the society. After 15/20 days of the marriage, Nawab Singh raised a demand of Rs. 2 lakhs in cash. When the complainant expressed her inability, she was beaten mercilessly. Nawab Singh then tried to kill her but remained unsuccessful. The complainant was told that Nawab Singh had married her as he needed a maid for his children. So much so that her in-laws did not allow her to bear any child from the loins of Nawab Singh, who was addicted to drinking and gambling and used to beat her under the influence of liquor. In March 2011, the accused asked the complainant to bring Rs.2 lakhs from her parents and when she refused, Nawab Singh with the help of his parents, tried to kill her by giving electric shocks. All the accused turned her out of the matrimonial home. On 8.4.2011, a Panchayat was convened by the father of the complainant in which the accused agreed to keep the complainant in a cordial manner. On 11.4.2011, the complainant got her pregnancy checked which was found to be positive. On 12.4.2011, when the complainant went to her matrimonial home, she told this fact to the accused, who became annoyed and insisted upon her to terminate the pregnancy. She requested them not to do so but they remained adamant. In the meantime, she suffered from cough and cold. Her husband Nawab

Singh gave her four tablets which she consumed. After sometime, she noticed that she was bleeding from her vagina and when the accused came to know of the same, they started laughing and proclaimed that they had been successful in getting her pregnancy terminated. On 2.5.2011 she was turned out of the matrimonial home and on 3.5.2011 she again got her pregnancy checked which came to be negative. The complainant then made statement before the police on the basis of which FIR No.354 dated 18.7.2011 under Sections 406, 498-A, 313, 323, 506/34 IPC was registered against the accused at Police Station Nissing, Karnal.

After completion of investigation, the respondents were tried for offences punishable under Sections 498-A, 406, 323 and 313 read with Section 34 IPC to which they pleaded not guilty and claimed trial. However, the trial ended with the acquittal of the accused. Hence, the present application.

Having heard learned State counsel and on going through the impugned judgment of acquittal, this Court finds that Nawab Singh respondent was earlier married to Manjit Kaur, buq of the complainant. From that marriage, two children were born. However, Manjit Kaur died on account of cancer. There is no allegation that Nawab Singh had been a vagabond, gambler or drunkard during the period of 10 years in which he lived with Manjit Kaur. On the other hand, he had been a gentle and well-behaved person and performing his social obligations. After the death of Manjit Kaur, Sukhwinder Singh father of the

complainant and brother of Manjit Kaur, alongwith his other relatives on the one side and Nawab Singh, respondent on the other, thought it proper to marry complainant Harvinder Kaur with Nawab Singh so as to make arrangement for proper up-bringing of the two children, left behind by Manjit Kaur. Under these circumstances, it cannot be said that the marriage of complainant Harvinder Kaur with Nawab Singh was for the sole purpose of providing a maid for the two children of Nawab Singh, rather Nawab Singh had been living with complainant Harvinder Kaur and performing all marital obligations.

As regards the demand of dowry, the version given by the prosecution is highly improbable. On the other hand, as is clear from the Panchayati compromise Ex.P-6 the execution of which has not been denied by any of the parties, Nawab Singh had agreed to transfer the property which was in the name of his wife Manjit Kaur in favour of his mother-in-law and brothers-in-law. It was also stated therein that the accused would not give any beatings to complainant Harvinder Kaur. However, it was not mentioned that there was a demand of dowry. It, therefore, suggests that at no stage, the accused had demanded dowry. Rather the property which was in the name of Manjit Kaur and sought to be transferred by Harvinder Kaur in favour of his mother-in-law and brothers-in-law was the bone of contention between the complainant and the accused but it cannot be held that the accused had been treating the complainant with cruelty. As regards the alleged giving of beatings, there is no medical evidence. Similarly, as regards the act of the

accused in terminating the pregnancy of complainant Harvinder Kaur and making out commission of offence under Section 313 IPC, the prosecution has relied upon test reports Exs.P7/A and P8/A. However, in none of the reports, it was reflected that the complainant had been referred by any doctor. As regards the allegations of the prosecution that the accused after making her consume certain tablets also handed over to her empty strips of tablets appears to be highly improbable as the accused would not have left any evidence which could be used against him. From the testimony of PW3 Harpreet Singh, it is also apparent that the pregnancy might have been terminated in a natural course of lifting of some weight or sitting on floor on foot for long time. Therefore, the offence under Section 313 IPC is also not made out.

The trial Court has discussed each and every piece of evidence brought on record by the prosecution and after appreciating the same has rightly concluded that the prosecution had failed to prove the commission of various offences for which the accused were charged.

Resultantly, the acquittal of the accused-respondents is upheld and the application is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

March 26, 2015
pds.