

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-270-MA of 2014 (O&M)
Date of decision: September 29, 2015

Nikko Devi

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Narender Pal Bhardwaj, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Nikko Devi has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Haryana and other respondents, challenging the judgment dated 13.01.2014 passed by learned Judicial Magistrate Ist Class, Karnal, whereby the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that judgment of acquittal of the accused persons under Sections 498-A, 406, 323, 504 and 506 IPC has caused grave miscarriage of justice.

I have heard learned counsel for the applicant and have gone through the record.

As per the record, the complainant Nikko Devi filed a

complaint against Harnam Kumar, Ram Kishan and Guddo under Section 498-A and 406 IPC. As per complainant's version, marriage of her daughter namely Vajiro Bai was solemnized with accused No.1 Harnam Kumar on 13.05.2001 at Karnal according to Hindu rites and ceremonies and out of the wedlock, two male children were born. It is the case of the complainant that they spent ₹3 lacs in the marriage and had given sufficient dowry articles and cash. However, since the very inception of the marriage, the accused were not happy with the dowry articles and used to taunt and humiliate Vajiro for bringing inadequate dowry. It is further the case of the complainant that Harnam Kumar used to come late in night and under the influence of liquor, he used to hurl filthy abuses to Vajiro Bai at the instance of his parents as well as Ram Chander. It is also alleged that behaviour of accused No.2 and 3 was also not good towards Vajiro Bai and on their instigation, her husband used to give severe and merciless beating to her and used to harass her on petty matters. It is also the case that accused persons used to force Vajiro Bai to bring more dowry articles. Accused started pressurizing to bring a motorcycle and a sum of ₹50,000/-. When Vajiro Bai approached her parents and narrated the whole incident, then father of Vajiro Bai along with the complainant went to her matrimonial home and paid a sum of ₹40,000/- to the accused persons in the presence of Ram Kishan. It is further case of the complainant that for two months Vajiro Bai was kept nicely by the accused. On 13.11.2007, Harnam Kumar under the influence of liquor and at the instance of Ram Kishan and Guddo, gave merciless

beatings to Vajiro Bai and she was turned out of her matrimonial home on 14.11.2007. On 30.11.2007, a Panchayat was also convened and the matter was settled. Thereafter, Vajiro Bai lived in her matrimonial home for few months but there was no change in the attitude of the accused. On 15.05.2008, mother-in-law of Vajiro Bai caught hold her from her hair and dragged her out of the house, Harnam Kumar gave kicks and slaps and Ram Kishan threatened Vajiro not to enter in her matrimonial home without fulfilling their demand.

On the basis of the evidence, learned JMIC, Karnal, acquitted the accused-respondents of the charges framed against them vide impugned judgment dated 13.01.2014.

At the time of arguments, nothing has been pointed out as to which material evidence has been misread or has not been considered by the Court. There is also nothing on the record to show as to how the reasoning and findings given by learned Court below are perverse or against the evidence. Learned JMIC, Karnal after appreciating the evidence held that Vajiro Bai in her examination-in-chief as well as in cross-examination, has not alleged any specific allegation with specific date as to when she was maltreated or when demand of dowry was made. Only vague allegations against all the family members of the husband are levelled. No specific instance of cruelty or harassment on account of dowry has been deposed by her. She herself specifically admitted in her cross-examination that in the year 2007, Harnam had come to her maternal home at Karnal and lived there for two years. She further stated that she does not know

when her father purchased the motorcycle and gave to her husband. Complainant Nikko Devi has reiterated her allegations in her examination-in-chief but in her cross-examination, she stated that they had not given any motorcycle to Harnam and she further stated that she did not have receipt of dowry articles purchased. She also stated that Harnam had lived with her daughter at their home. CW-3 Chudu Ram in his cross-examination stated that Harnam had lived at their house as 'Ghar Jamai' for a period of two years and he used to earn well during this time. He also stated that a dispute arose between them with regard to income from their business. CW-4 Ram Kishan, independent witness stated that ₹40,000/- were paid by Vajiro's father to Harnam Singh whereas CW-3 Chudu Ram has specifically stated that money was paid by him to Harnam's father.

In view of the above discussion of the evidence, firstly I find that no particular instance has been given regarding maltreatment. No particulars have been given as to when the demand was raised. The marriage took place in the year 2001 and the complaint was lodged in the year 2008. Even the version given by the complainant that accused Harnam Kumar resided in their house from the year 2007-2009 is also contradictory as the complaint has already been filed in the year 2008, which means that at that time, Harnam Kumar was residing in his in-laws house. This version that Harnam Kumar resided in the parents' house of Vajiro Bai for two years, itself shows that no dowry demand could be raised when he was residing in the house of the complainant. A reasonable doubt exists from the

evidence on record and learned Magistrate by correctly appreciating the evidence, has rightly acquitted the accused-respondents.

In view of the above discussion, I find that the findings given by learned JMJC, Karnal, are as per evidence. In no way, the findings can be held as perverse. The judgment dated 13.01.2014 passed by learned JMJC, Karnal, is correct, as per law and evidence.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

September 29, 2015
Vgulati

(INDERJIT SINGH)
JUDGE