IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 1258 of 2005 (O&M)
Date of decision: 25.08.2015

Mangat Rai

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Jagjit Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for the State.

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Jitendra Chauhan, J. (Oral)

By filing the present criminal revision, the petitioner has assailed the judgment dated 01.06.2005, vide which, the learned Addl. Sessions Judge, Patiala, partly accepted the appeal filed by the petitioner against the judgment dated 17.03.2003, passed by the learned Sub Divisional Judicial Magistrate, Rajpura, whereby, the petitioner was convicted under Sections 406 and 498-A IPC and sentenced to undergo RI for a period of two years along with fine of Rs. 1000/- and in default of fine, to further undergo RI for 15 days and under Sections 6, 4 and 4B of Dowry Prohibition Act, the

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accused/petitioner was sentenced to RI for one year and to pay of Rs. 1000/- and in default of fine, to further undergo RI for 15 days.

The brief facts of the case as para para No.2 of the trial Court are as under:-

> *"The complainant Surinder Pal @ Asha filed complaint against the accused under Sections 6, 4 and 4-B of the Dowry Prohibition Act, 1961 read with Section 406 IPC, submitting that complainant is the legally wedded wife of accused Mangat Rai. Marriage of the complainant took place with him on 06.12.1981. In the marriage, sufficient dowry was given to the accused person. Golden ornaments and silver ornaments were handed over and entrusted to Mangat Rai. Immediate after the marriage, accused person started ill-treatment with the complainant on the ground that she had not brought sufficient dowry. Accused person was greedy person and he was not satisfied with the dowry given by the parents of the complainant in the marriage and ultimately, the complainant was turned out by the accused on the ground of less dowry and articles of dowry entrusted by the parents of the complainant to the accused person was never transferred to the complainant within one year after the marriage and complainant was deprived of her rights and she was kept without food for days together. The complainant was forced to bring more articles of dowry, cash amount, TV and motorcycle etc,. Accused was legally bound to transfer the articles of dowry to the complainant and he has committed breach of trust. Due to ill treatment meted out to the complainant, she filed a complaint against the*

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accused."

Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioner which was admitted on 18.08.2005. The sentence of accused/petitioner was suspended on the same day.

Learned counsel for the petitioner/accused has contended that the both the Courts below have grossly overlooked the major infirmities in the complaint while convicting the petitioner/accused. The complainant had alleged that she was beaten up by the accused on account of demand of dowry. The list of dowry articles was prepared on 06.12.1981, whereas the list annexed with the complaint is dated 13.09.1990. No bills of the articles allegedly purchased was annexed with the complaint. He states that there is no cogent evidence on record that the petitioner ever demanded any dowry either at the time of marriage or thereafter from the complainant. The co-accused have already been acquitted by the trial Court. The trial Court as well as the Appellate Court convicted the petitioner only on the ground that the petitioner agreed to pay Rs.1,50,000/- within three months to the complainant in lieu of dowry articles before the Lok Adalat on 24.11.2000. However, due to poor condition of the petitioner, he could not pay the agreed amount. The settlement reached between the parties before the Lok Adalat has not been placed on record, therefore, the same cannot be read into evidence.

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Lastly, the learned counsel for the petitioner has argued that the petitioner has already suffered a protracted trial as the FIR was registered on 13.09.1990. He is an old man and is suffering from various ailments, therefore, lenient view may be taken against him. The learned counsel cites **Vijay Kumar** Vs. **State of Punjab 2011 (3) RCR (Criminal) 104.**

On the other hand, the learned State counsel has submitted that the petitioner being the main accused, has been rightly convicted by the trial Court, therefore, the present petition deserves to be dismissed.

I have heard the rival contentions of learned counsel for both the parties and have gone through the record carefully.

A bare perusal of the record reveals that the marriage between the parties was solemnized on 06.12.1981. Out of their wedlock, two daughters were born. Earlier, the complainant had filed a petition under Section 8A of the Act but the same was rejected by the competent authority on 21.05.1987. Initially, the complaint was filed against six persons including the present petitioner. However, finding no prima facie case or evidence against them, the trial Court acquitted two of them and the remaining two co-accused were acquitted of the charges by the Appellate Court, whereas one of them had already died in the interregnum. There is no bill or any document with regard to purchase of the alleged dowry articles by the

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complainant or her family. The petitioner was convicted only on the ground that he agreed to pay Rs.1.5 lacs to the complainant before the Lok Adalat. The Courts below have wrongly drawn an adverse inference against the accused. Moreover, the petitioner had already been acquitted of charges framed under Section 498-A IPC and Section 4 and 4-B of the Act, vide judgment dated 01.06.2005. There is no cogent and convincing evidence on record to establish the demand of dowry by the petitioner.

In view of the above, this Court feels that no purpose will be achieved in keeping the proceedings alive. Accordingly, the present revision is allowed. The judgments of conviction and order of sentence of the appellate court as well as the trial Court are set aside. The petitioner is already on bail. The petitioner is acquitted of the charges.

25.08.2015 **(JITENDRA CHAUHAN)**
sumit.k **JUDGE**

Whether to be referred to reporter: No

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