

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

(1)

**CRR No.3046 of 2010.
Decided on : 30.10.2015.**

State of Haryana

...Petitioner

Versus

Pankaj and others

...Respondents

(2)

CRR No.2680 of 2013

Rajni

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

**Present : Mr. Arun Luthra, AAG, Haryana,
for the petitioner in CRR No.3046 of 2010.**

**Mr. Arun Bansal, Advocate,
for the petitioner in CRR No.2680 of 2013.**

JITENDRA CHAUHAN, J.

CRM No. 59757 of 2010 and CRM No. 38048 of 2013

For the reasons contained in the applications, the delay in filing the revision petitions stand condoned. The applications are allowed subject to all just exceptions.

Main case

This judgment shall dispose of aforementioned two revision petitions bearing CRR No. 3046 of 2010 and CRR No. 2680 of 2013, as the same are filed against the common judgment dated

31.3.2010, passed by the Additional Sessions Judge, Narnaul and the judgment order dated 6.10.2009/7.10.2009, passed by the Chief Judicial Magistrate, Narnaul.

The husband Pankaj, brother-in-law Puneet Kumar, father-in-law Ramautar, sisters-in-law Poonam and Pooja and mother-in-law Rajrani of complainant Rajni were tried by the trial Court for the commission of offences punishable under Sections 498-A, 406 and 506 read with Section 34 IPC.

The brief facts of the case as noticed in the judgment passed by the Additional Sessions Judge are as under:-

“The brief facts of the case are that Lajwanti wife of Satyapal moved an application stating that marriage of her daughter Rajni was solemnized on 29 June 2001 with Pankaj Kumar son of Ramautar resident of Rohini Delhi. It is further averred that Pankaj, his brother Puneet Kumar, their father Ramautar, mother Rajrani, sisters-in-law Poonam and Pooja started harassing Rajni for bringing insufficient dowry just after the marriage. They raised a demand of gold bangles, necklace, a motor cycle and washing machine and started beating her. It is further averred that complainant tried to settle the matter but the said persons did not agree and kept on demanding dowry, harassing and torturing her

daughter Rajni. The in-laws of her daughter did not even return the articles given to her at the time of marriage and refused to keep her in her matrimonial house. It is further averred that her daughter was given threat of criminal intimidation. It is further averred that complainant disclosed about the articles given to her daughter at the time of marriage and other occasions. After registration of the case, investigation was conducted. After completion of investigation challan in the case was presented in the Court.”

The challan/report under Section 173 Cr.P.C was presented in the Court. Charges under Sections 498-A, 406 and 506 read with Section 34 IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1 the complainant, Lajwanti, PW-2 Rajni, PW-3 ASI Brahm Prakash, PW-4 EHC Kanti Lal and PW-5 Karan Singh, retired Inspector.

PW-1, Lajwanti has deposed that her daughter Rajni was married on 29.6.2001 to accused Pankaj. At the time of marriage, an amount of Rs.80,000/-, gold worth Rs.9000/-, two heavy bangles valued at Rs.9000/-, ear rings and the other household articles as

mentioned in the complaint Ex.PW-1/A were given as dowry. All the

said articles were handed over to the accused and his mother Rajrani. After marriage, her son Anurag visited her daughter's matrimonial house for Phera ceremony. On the same day, her daughter along with her husband and her in-laws family came to Modi Nagar. Rajni disclosed that her husband and his family were not happy with the dowry articles given in the marriage. They taunted her saying that they used to get proposals of marriage for Pankaj from rich parties who were willing to give a car in dowry. Rajni told her that her in-laws were demanding heavy bangles of gold, a gold necklace, a washing machine and a motor cycle. Furthermore, her in-laws used to beat and maltreat her since these demands were not being fulfilled. On hearing the plight of her daughter, PW-1 Lajwanti, along with her son Anurag visited her daughter's in-laws house and requested them to forego their demands as she had already given sufficient dowry and now she had nothing left to give. She suffered from ill health but her financial situation was such that she was unable to pay for her medical treatment. However, the accused did not pay heed to her requests and remained adamant on their demands. Even so, she gave assurance to her daughter and returned to Narnaul.

Thereafter, in September, 2001, PW-1 received one letter Ex.PW-1/B written by her daughter in envelop Ex.PW-1/C. On receiving the said letter, she along with her other son-in-law Mahender Kumar, who was residing at Delhi, visited Rohini, observed the whole situation and saw that her daughter was in a pitiable and sick condition.

She recounted her sufferings to PW-1 who took her back to Narnaul as she suspected that her daughter's in-laws would kill her in greed of dowry and since then, her daughter Rajni was residing with her. On 18.2.2002 her son-in-law Pankaj along with his father Ramautar came to Narnaul and PW-1 again requested them that she was not in a position to fulfil their dowry demands and requested them for maintaining the matrimonial house of her daughter but they clearly stated that they would not allow the same without fulfilment of dowry demands and if they complained to anyone, then she would face dire consequences and they also threatened to eliminate them.

PW-2, Smt. Rajni deposed that her marriage was performed on 29.6.2001 as per Hindu rites and ceremonies with Pankaj Gupta. At the time of marriage, cash of Rs.80,000/-, 21 sarees, two heavy gold bangles, one gold chain, gold ear rings and anklets, a Titan watch, tape recorder and other dowry articles were given. Her mother also incurred various other expenses of the marriage functions. After the marriage, her mother in law Rajrani, father in law Ramautar, husband, Nanad Pooja and Poonam and dewar Punit started taunting her on account of bringing low quality articles in dowry. They demanded four gold bangles, a gold necklace, a washing machine and a motor cycle. They used to beat her to fulfill these demands. Her version supports the deposition made by PW-1.

PW-3, ASI Braham Prakash deposed that on

31.1.2002 he received a complaint Ex.PW-1/A on the basis of which

FIR Ex.PW-3/A was registered. He investigated the matter partly.

PW-4, EHC Kimti Lal deposed that on 31.3.2002 he received a special report from MHC City Narnaul and delivered the same to area Magistrate, IG, SP and DSP.

PW-5, Karan Singh retired Inspector deposed that on 7.4.2002 he investigated the matter. Accused persons were found involved in the case and accordingly, police report was filed against them under his signatures.

Statements of the accused under section 313 Cr.P.C were recorded and all the incriminating circumstances appearing in the prosecution evidence were put to them which they denied and pleaded false implication.

In defence evidence, the accused examined DW-1 Siripal, DW-2 SI Ajit Singh, DW-3 HC Parhlad Singh and DW-4 ASI Om Parkash.

DW-1, Sri Pal deposed that Rajni is his niece being the daughter of his younger brother. Her marriage was performed with Pankaj at Modi Nagar. He gave Rajni away at the wedding as her father had renounced the world and had not attended the wedding. He deposed that a simple marriage ceremony was performed and that there was no demand of dowry. He knew Rajni's father-in-law Ramautar prior to the marriage and in fact, the marriage was settled by him as he was the common link between both the parties. He deposed further that

after marriage, Rajni resided at her in-laws house and she used to visit

him. Neither Rajni nor her mother had ever complained to him regarding demand of dowry. Prior to the present FIR, there was a complaint which was inquired into by the police of PS Narnaul and was found to be false. He tried to advise Rajni and her mother against such behavior but they did not agree to his good advice.

DW-3, HC Prahalad Singh deposed that on 20.12.2002 he was posted at PS Seelampur. On that day he received the complaint from Mahender Kumar Mittal through SHO for making enquiry. He filed report before SHO on 10.2.2003 which is Ex.D-3.

DW-4, ASI Om Parkash deposed that on the direction of SHO he conducted an inquiry at Modi Nagar, Rohini and Seelampur. During the inquiry, he recorded statements of witnesses and found that the allegations against the accused persons could not be substantiated and were found to be false and incorrect. His inquiry report is dated 21.1.2003, which is Ex.D-7.

During trial, the accused Rajrani died and proceedings against her stood abated on 19.10.2005.

After appraisal of the evidence led by the parties, the learned trial Court, vide the impugned judgment dated 6.10.2009, acquitted accused, Puneet Kumar, Poonam and Pooja of the charges framed against them. However, accused Pankaj and Ramautar were held guilty and convicted under Sections 498-A and 506 IPC and vide the order of sentence dated 7.10.2009, were sentenced to undergo RI

for one year and to pay fine of Rs.2000/- with default stipulation under

Section 498-A IPC. They were further sentenced to undergo RI for 6 months under Section 506 IPC.

Learned counsel for the petitioner have contended that both the Courts below have committed a grave error in acquitting the accused. The demand of dowry and other specific allegations were proved against all the accused. The willful conduct on the part of all the accused was sufficient to pressurize the victim for bringing more dowry. It had been proved that the conduct of the accused was dangerous to life, limb and physical as well as mental health of the victim. The learned counsel argued that the observations made by the Courts below were based on surmises and conjectures. Once entrustment of the dowry articles is proved, the accused are liable to be convicted under Section 406 IPC.

I have heard learned counsel for the petitioners and have gone through the record of the case.

In this case, the star witnesses are PW-1, the complainant Lajwanti and PW-2, the victim, Rajni. However, there were many improvements during the examination of PW-1 and PW-2 and these improvements were duly confronted by the defence counsel during their cross-examination. It has not been proved that the complainant or her daughter Rajni ever demanded back the dowry articles and the same were refused by the accused. PW-1 and PW-2 failed to specify the dowry articles which were misappropriated by her in-laws. She even failed to assert the number of articles taken by her at

the time of leaving the matrimonial house. Most of the articles had already been recovered by the Police. There was no list of dowry articles. Therefore, the accused were rightly acquitted of the charges under Section 406 IPC.

As far as the offence punishable under Section 506 IPC is concerned, the Additional Sessions Judge observed that it was not plausible that a person would travel from Delhi to Narnaul just for demanding dowry and giving threat instead of making request to take back the bride. The threat being a conditional one, no offence under Section 506 IPC was made out. The reasoning assigned by the Additional Sessions Judge does not call for any interference.

As regards the offence of cruelty, earlier, the complainant moved one complaint Ex.DW-4 before the Police. The allegations in Ex. DW-4 and in the present complaint Ex.PW-1/A were identical. The earlier complaint Ex.DW-4 was inquired into by ASI Ajit Singh of Police Station City, Narnaul and he found the allegations to be false. The letter Ex.PW-1/B and its cover note Ex.PW-1-C were found to have been forged by the complainant. The prosecution dropped Anurag the real brother of Rajni and Mahender the real brother-in-law (Jija) of Rajni being won over by the accused. The Additional Sessions Judge further observed that the said witnesses were not ready to depose false and concocted story, fabricated by Lajwanti and Rajni. Even DW-1, Siripal, the real uncle of Rajni deposed in favour of the accused and against the complainant.

Taking all the aforesaid circumstances into consideration, this Court is of the opinion that the Courts below have rightly acquitted the accused of the charges framed against them by observing that the prosecution has not been able to prove the guilt of the accused beyond reasonable shadow of doubt.

Consequently, both the revision petitions are dismissed.

30.10.2015.
SN

(JITENDRA CHAUHAN)
JUDGE