

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.2858 of 2012

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Date of decision:22.9.2015

Bachittar Singh

...Petitioner

v.

Gurmail Singh and others

Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. G.S. Sidhu, Advocate for the petitioner.

Mr. Sherry K. Singla, Advocate for respondents No.1 to 5.

Ms. Priyanka Sadar, Assistant Advocate General, Punjab
for respondent No.6-State.

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Inderjit Singh, J.

The petitioner has filed this criminal revision petition under Section 401 Cr.P.C. challenging the impugned judgment dated 16.5.2012 passed by the learned Additional Sessions Judge, Mansa, dismissing the appeal filed against the judgment of acquittal dated 18.11.2010 passed by learned Sub Divisional Judicial Magistrate, Sardulgarh.

Notice of motion has been issued in this case.

Mr. Sherry K. Singla, learned Advocate has put in appearance on behalf of respondents No.1 to 5 and Ms. Priyanka Sadar, learned Assistant Advocate General, Punjab, has appeared on behalf of respondent

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No.6-State and contested this revision petition. Record of the Courts below has also been summoned.

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

From the record, I find that challan was presented against respondents No.1 to 5 in FIR No.08 dated 12.1.2005 registered for the offences under Sections 498-A and 406 IPC at Police Station Jourkian. As per the prosecution version on 25.11.2004, Bachittar Singh filed an application before Senior Superintendent of Police, Mansa, for taking action against the in-laws of his daughter-Harprit Kaur, on the allegations that marriage of Harprit Kaur was solemnized with Gurmail Singh son of Rajinder Singh about two years back and he had spent amount as per his capacity and gave maximum dowry articles. Father-in-law of his daughter, namely, Rajinder Singh, mother-in-law Surjit Kaur, Jeth Avtar Singh, Jethani Devinder Kaur and husband Gurmail Singh started harassing his daughter since her marriage for dowry articles and they had also given beatings to her. His daughter was turned out of the matrimonial home by them after giving severe beatings to get more dowry articles previously, on which a Panchayat was convened and his daughter was rehabilitated with the help of Panchayat. He has given other articles and amount in cash to the in-laws of his daughter for her rehabilitation even after her marriage. On 24.11.2004, the in-laws of his daughter turned out her from the matrimonial home by giving beatings for getting more dowry articles.

The charges were framed for the offences under Sections 406 and 498-A IPC against the accused/respondents No.1 to 5.

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In order to prove its case, the prosecution examined Bachittar Singh as PW-1, Harprit Kaur as PW-2, Gurbinder Singh as PW-3, Satwinder Singh as PW-4, Mithu Singh as PW-5, Angrej Singh as PW-6, Ram Singh as PW-7, Balwinder Singh as PW-8, Inspector Malkiat Singh (retired) as PW-9, Paramjit Bawa as PW-10 and thereafter, the learned APP for the State closed the prosecution evidence.

At the close of prosecution evidence, statements of accused were recorded under Section 313 Cr.P.C, in which they had denied all the incriminating evidence of the prosecution put to them and pleaded that they are innocent. They examined in defence Jeet Singh as DW-1, Leela Singh as DW-2 and Mukesh Kumar, Ahlmad as DW-3.

The learned Sub Divisional Judicial Magistrate, Sardulgarh, vide judgment dated 18.11.2010 after appreciating the evidence acquitted the accused/respondents No.1 to 5. Appeal filed against this judgment has also been dismissed by learned Additional Sessions Judge, Mansa, vide judgment dated 16.5.2012. Aggrieved against these judgments, the present criminal revision petition has been filed.

From the record, I find that it is a revision petition and in the revision petition, the Court is not to re-appreciate the evidence like the Court of appeal. The Court is to see whether the order passed by the learned Court below is illegal, perverse or some material evidence has not been discussed or the evidence has not been discussed in the right perspective. After going through the record especially the judgment passed by the Courts below, I find that no illegality has been committed by the Courts below. Learned counsel for the petitioner has not pointed out anything which

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material evidence has not been considered and discussed in the right perspective or which material evidence has been misread by the Courts below.

Learned Sub Divisional Judicial Magistrate, Sardulgarh, vide his judgment dated 18.11.2010 has discussed that there is nothing in the application Ex.PA given by Bachittar Singh to Senior Superintendent of Police, Mansa for registration of the FIR, regarding the entrustment of any specific dowry articles to any specific accused. Similarly, there is no evidence on the record to show misappropriation of dowry articles. As per the prosecution version, before filing this application, Harprit Kaur was residing in her in-laws' house and as per her cross-examination, she was using the dowry articles. She was turned out of her matrimonial home as per the prosecution version on 24.11.2004 and the application Ex.PA for registration of the FIR was given on the very next day i.e. 25.11.2004. There is also nothing in the application or in the evidence that the dowry articles have been misappropriated.

As regards the offence under Section 498-A IPC also no particular instance has been given regarding any maltreatment or harassment. General averments have been made regarding giving beating to Harprit Kaur, but there is neither any medical evidence produced on the record nor any particular instance has been given regarding the maltreatment and harassment. Even in Ex.PA, it is not mentioned which article they were demanding as dowry from the complainant.

The Courts below have discussed the evidence produced on record in minute detail and reached to correct conclusion that prosecution

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has failed to prove the offences under Sections 406 and 498-A IPC by leading cogent evidence. The judgments passed by the Courts below are correct, as per evidence and law and the same do not require any interference from this Court. No illegality has been committed by the Courts below while passing the impugned judgments and these are upheld.

Finding no merit in the criminal revision petition, the same is dismissed.

September 22, 2015.

(Inderjit Singh)
Judge

hsp