

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Crl. Rev. No. 3010 of 2012 (O&M)

Date of decision : February 23, 2015

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Ruksina

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Satish Chaudhary, Advocate for the petitioner.

Mr. C.S Bakshi, Addl. Advocate General, Haryana.

Mr. Roopak Bansal, Advocate.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

Crl. Misc. No. 58617-M of 2012

For the reasons mentioned in the application, prayer made in the application is allowed.

Delay of 315 days in filing the present petition is hereby condoned.

Crl. Rev. No. 3010 of 2012

Present revision petition has been filed challenging the order dated 1.8.2011 passed by the Additional Sessions Judge, Nuh, vide which the judgment of conviction dated 14.3.2009 and order of

sentence dated 25.3.2009 passed by the Sub Divisional Judicial Magistrate, Mobile Court at Punhana has been set aside and respondents/accused were acquitted of the charge framed against them. Vide the trial Court judgment the accused were held guilty for the commission of offence under Section 498-A, 406 IPC and were convicted thereunder. They were sentenced to undergo rigorous imprisonment for a period of one year for the commission of offence under Section 498-A IPC. They were further sentenced to undergo rigorous imprisonment for a period of six months for the commission of offence under Section 406 IPC. All the sentences were order to run concurrently. All the three accused were ordered to deposit a sum of Rs.5000/- each towards compensation to the victim, failing which they were further directed to undergo rigorous imprisonment for a period of 15 days.

Brief facts of the prosecution case are that on 31.3.2002, complainant Ruksina was married to respondent no.2-accused Farman Ali. Sufficient dowry was given in the marriage including a cash of Rs. 92,000/-. The accused used to torture the complainant for bringing insufficient dowry and made demand for a car. After three days of marriage, she returned to her parental house. After one week, she returned to her matrimonial house. Her father tried to reason with the accused not to misbehave with her but she was tortured and treated with cruelty. On 28.9.2002, the Gona ceremony took place and the complainant had gone to Village Shikrawa. The father of the complainant sent her daughter with accused Farman Ali.

However, the in-laws of the complainant treated her with cruelty. She sent a message to her father who took the members of Panchayat along with him and reached the house of accused in Village Shikrawa along with Juhar Khan, Ex-Sarpanch, Rai Khan Member Panchayat, Abdul Rehman and Fateh Mohd., but the accused remained adamant on their demand of a car. Lastly on 13.3.2003, the father of the complainant again went to village Shikrawa along with the Members of Panchayat but the accused did not pay any heed and refused to keep the complainant at their house. The complainant and her father demanded the return of dowry articles but the accused flatly refused to do so. The matter was reported to PP Pinangwan and Police Station Punhana but no action was taken. In this background, the FIR was registered.

After completion of all formalities of investigation, the accused were sent up for trial. The accused were charge sheeted for the commission of offence punishable under Sections 498-A, 406 IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined Ruksina as PW-1, Jahur Khan as PW-2 and Mohd. Sharif (father of Ruksina) as PW-3.

Statements of the accused were recorded under Section 313 Cr.P.C, wherein entire incriminating evidence appearing against them was put to them, however, they denied the same.

The trial Court after going through the entire evidence led by the prosecution, convicted and sentenced the accused-

respondents in the aforesaid terms. Vide judgment dated 1.8.2011 passed by Additional Sessions Judge, Nuh, an appeal against the judgment of conviction and order of sentence passed by the trial Court was allowed and the respondents-accused were acquitted of the charge framed against them. Compensation amount of Rs.15,000/- was directed to be refunded to the respondents.

The deposition of the complainant Ruksina as PW-1 and Juhar Khan, Ex-Sarpanch of Village Shikrawa as PW-2 and Mohd. Sharif father of the complainant as PW-3 was examined by the Lower Appellate Court. Ruksina in her examination-in-chief did not specifically made any allegations as to which particular articles given at the time of her marriage were handed over to which of the accused separately. In her examination-in-chief she has not stated date, month and time when she was beaten or subjected to cruelty on the pretext of demand of car by the accused. While deposing she stated that on 28.1.2003, she was given beatings with regard to the demand of car. However, in the complaint, no such date was mentioned. In the complaint there is no mention that any Panchayat was convened at Village Shikrawa. Ruksina further stated in her cross-examination that she never demanded dowry articles from the accused. There were other major contradictions in her complaint and deposition in the examination in chief with regard to the holding of the Panchayat. She could not tell any date on which the Panchayat had been convened.

The Lower Appellate Court, thereafter examined the

deposition of PW-2 Juhar Khan who had supported the case of the complainant. His examination in chief shows that he being one of the members of the panchayat tried to made reason with the accused Usman not to raise the demand of dowry and upon the persuasion of the panchayat, the complainant was rehabilitated. He further put a question mark regarding the truthfulness of the complainant's version when he stated that even after 13.3.2003 panchayats were held, whereas in the complaint there is no such reference that any panchayat after 13.3.2003 was ever held because as per version of Complainant it was last panchayat on 13.3.2003 when the accused again repeated their demand of car and refused to settle the complainant at her matrimonial house. Due to the contradictions in the depositions of PW-2 with regard to the events and demand of car, the benefit of doubt was extended to the accused by the Lower Appellate Court. PW-3, Mohd. Sharif in his cross-examination, stated that his daughter was not present in the Panchayat on 13.3.2003. Version of the complainant that she had demanded her dowry articles back from the accused in the presence of the Panchayat became doubtful. There is a further contradiction in the statements as in his cross-examination, he stated that all the accused came to the village Shikrawa and left complainant there.

After the deposition of PW-1, another fact which has been considered by the lower Appellate Court is that the accused kept her in village Balheri which is the village of daughter of accused Usman and Misrubi and sister of accused Farman Ali. She further stated

that thereafter at her own she left to her parental village Shikrawa. Accused had made efforts to retain her custody. Moreover, a complaint of kidnapping was pending against PW-3. The version of the complainant was found full with contradictions and inconsistencies and therefore extending the benefit of doubt, the accused were acquitted and a compensation of Rs.15,000/- was directed to be refunded to the accused.

Counsel for the respondents has placed on record, copy of the order dated 10.6.2014. The same is taken on record as Annexure A-1. This order was passed in a petition filed by the petitioner Ruksina under Protection of Women from Domestic Violence Act, 2005. During the pendency of the trial, the complainant had solemnized second marriage with Sirajuddin on 4.5.2009 son of Hassan Mohd. and on account of harassment caused to her by her in-laws, she had filed the above said petition which after notice to the respondent was dismissed on 10.6.2014. While dismissing the petition, it has been noticed that the Ruksina was legally wedded wife of Farman Ali as no *talak* in accordance to shariyat law is proved on record rather she received maintenance from Farman Ali alleging her wife till 12.12.2009.

After perusing the judgments dated 10.6.2014 passed by the Civil Judge (Jr. Division), Ferozepur Jhirkha and judgment of acquittal dated 1.8.2011 passed by the Lower Appellate Court and going through the facts of the present case, no ground is made out to interfere with the findings recorded by the Lower Appellate Court do

not require any interference. Hence, acquittal of the respondents is maintained.

In view of the above, present revision petition is dismissed.

February 23, 2015
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(RITU BAHRI)
JUDGE