

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

CRR No.4130 of 2014 (O&M)

Date of Decision: February 19, 2015

Subhash Chander

.... Petitioner

vs.

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Manbir Singh Batth, Advocate for the petitioner.

Mr. Nikhil K. Chopra, Deputy Advocate General, Punjab.

Mr. A.K. Khunger, Advocate for respondent No.2.

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?

Kuldip Singh J.(Oral)

Challenged in the present revision is the judgment dated 28.10.2014 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib affirming the judgment and order dated 02.03.2013 passed by learned Sub Divisional Judicial Magistrate, Malout, whereby the revisionist was convicted under Section 498-A of the Indian Penal Code, 1860 (in short 'IPC') and sentenced to undergo rigorous imprisonment for one year and to pay a fine of ₹2,000/-, in default thereof to undergo further rigorous imprisonment for two months, while acquitted co-accused Jagdish Kumar, Bimla Devi and Tinku, father-in-law, mother-in-law and brother-in-law of the complainant,

respectively, in a criminal complaint case bearing No.58-1, dated 10.04.2008 filed by Raj Rani wife of accused-revisionist Subhash Chander, under Sections 406 and 498-A IPC.

The facts necessary for the purpose of disposal of the present revision are being mentioned in the present order. The parties were married in November 2002 at Malout. In the complaint, the allegations were levelled against husband Subhash Chander as well as father-in-law, mother-in-law and brother-in-law of the complainant about the entrustment of different dowry articles and misappropriation thereof, which pertains to Section 406 IPC.

Regarding allegation of cruelty, it was stated that accused were greedy persons and they started beating and taunting her (complainant) on account of bringing less dowry. On raising demand of ₹.50,000/-, the complainant told the accused that her father is no more and her parental family is hand to mouth and cannot fulfill their demand. On this, all the accused confined her in a room and gave her beatings and threatened to kill her.

In February, 2007, all the accused gave beatings to the complainant and turned her out from the matrimonial house. After fifteen days, a Panchayat was convened, in which ₹50,000/- were again demanded. The accused also refused to rehabilitate the complainant.

After recording the preliminary evidence, accused were summoned under Sections 406 and 498-A IPC. Thereafter, the pre-charge evidence was recorded and the accused were charge-

sheeted under Section 498-A IPC, to which they pleaded not guilty and claimed trial.

Thereafter, the witnesses were further cross-examined.

In the statement under Section 313 of the Code of Criminal Procedure, 1973, accused claimed that they are innocent.

In defence, the accused examined Amarjeet Singh as DW1 and Inderjit Singh as DW2 and closed their evidence.

After hearing learned counsel for the parties and going through the evidence, learned Sub Divisional Judicial Magistrate, Malout, found that charges against accused Subhash Chander (husband of the complainant) were proved and that the charges against Jagdish Kumar, Bimla Devi and Tinku, father-in-law, mother-in-law and brother-in-law of the complainant were not proved. Accordingly, they were acquitted and the accused-revisionist was convicted and sentenced as aforesaid vide judgment and order dated 02.03.2013.

The said order was upheld in appeal by learned Addl. Sessions Judge, Sri Muktsa Sahib, vide judgment dated 28.10.2014.

I have learned counsel for the revisionist as well the learned counsel of the complainant and have also carefully gone through the case file.

The allegations of cruelty on account of demand of dowry can be summarized as under:

1. After marriage, accused started beating the complainant for bringing less dowry.

2. All the accused demanded ₹50,000/-.
3. The complainant was confined in a room and was given beatings.
4. In February 2007, all the accused gave beatings to the complainant and turned her out of the matrimonial house.

So far as the first two allegations are concerned, it comes out that the marriage of the parties took place in November 2002 and the last allegation of beating was in February 2007. Though, it appears that earlier three incidents took place between November 2002 to February, 2007. But no date, month or year of the said incidents has been given.

These are the vague allegations of beatings. Except the oral statements of the complainant and other witnesses, there is no medical report on the file to prove the allegation of beatings. Even, it is not stated that the complainant had received any injury on account of said beatings. The case of the complainant against father-in-law, mother-in-law and brother-in-law was disbelieved by both the courts below. It is also stated that the complainant had filed a revision against the acquittal of her father-in-law, mother-in-law and brother-in-law before the learned Addl. Sessions Judge, Sri Muktsar Sahib, but the same was also dismissed. The allegations levelled against the accused, in the present case, are of general nature. Once, these allegations are disbelieved against three of the accused, it cannot be said that the charges against the husband are also proved beyond all reasonable doubts.

Similarly, it is very easy to cook up the story that

₹50,000/- were demanded as dowry. It is not explained as to for what purpose, the money was demanded, particularly, when according to the complainant, accused knew that the complainant's family is hand to mouth and father of the complainant is dead.

Regarding the allegations of beatings in February 2007 and turning out the complainant from her matrimonial home, again these are general allegations against all the accused. There is no medical evidence to support the such statement nor it is stated that as to where the injury was received and what was the nature of injury.

It is to be noted that when there is a matrimonial dispute between husband and wife and litigation starts, it is very easy to level such allegations, which are supported only by oral evidence. The matrimonial discord has to be distinguished from the criminal offence. It has to be proved that the beating was in connection with demand of dowry and not on account of some domestic dispute.

After going through the evidence led by the complainant, Ramji Lal as CW1, Roshan Lal as CW2 brother of the complainant and Raj Rani complainant herself as CW3, I am of the view that it is not safe to rely upon the oral evidence of the said witnesses, particularly, when there is a matrimonial dispute between the parties. Therefore, it is held that the offence under Section 498-A IPC is not proved beyond all reasonable doubts against the revisionist. Thus, the conviction of the accused-revisionist under Section 498-A IPC cannot sustained in the eye of law. Accordingly, the judgment and

order dated 02.03.2013 passed by learned Sub Divisional Judicial Magistrate, Malout as well as judgment dated 28.10.2014 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib are hereby set aside and the accused-revisionist is acquitted of the charges framed against him. He be released forthwith, if not required in any other case.

The present revision stands allowed.

February 19, 2015
sarita

(KULDIP SINGH)
JUDGE