

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

CRR No.854 of 2014

Date of Decision: May 25, 2015

Rampal Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Amninderjeet Singh, Advocate (Amicus Curiea)
for the petitioners.

Mr. J.S. Brar, AAG, Punjab.

FATEH DEEP SINGH, J.

Initially a case by way of FIR No.37 dated 4.5.2005 under Sections 406,498-A,506,323 IPC was registered against the accused namely Rampal Singh, Surjit Kaur, Chamkaur Singh, Jasbir Singh, Gurdeep Kaur and Jasbir Kaur at Police Station Ahmedgarh. The complainant Harpreet Kaur, wife of Rampal Singh has alleged in her complaint that the accused inspite of having received sufficient dowry at the time of marriage including valuables which were given to the accused had still remained unsatisfied and had raised more demands of dowry and that accused has usurped her *Istri dhan* and it was on the arrest of Rampal Singh and Surjit Kaur on 4.5.2005 on the basis of their disclosure statements they got recovered articles of *Istri Dhan*. Learned Court of Judicial Magistrate Ist Class, Malerkotla through judgment and order of sentence dated 12.7.2010 acquitted all the accused for commission of offences under Sections 406 and 506 IPC but held them guilty under Section 498-A and 323 IPC whereby, they were sentenced to undergo rigorous imprisonment for one year under Section 323 IPC

and for rigorous imprisonment of three years and to pay a fine of ₹1000/- and in default thereof to further undergo rigorous imprisonment for three months under Section 498-A IPC.

On appeal by convict-appellants as well as on appeal by the complainant against these findings the Court of learned Additional Sessions Judge, Sangrur through impugned judgment and order of sentence dated 15.2.2014 acquitted the appellants Jasbir Kaur, Jasbir Singh and Gurdeep Kaur, whereas, holding petitioners-Rampal Singh husband and Surjit Kaur mother-in-law guilty for commission of these offences and, thus, dismissed their appeal. It is against these findings both the convicts have come up in this criminal revision petition.

Heard.

The two Courts below have considered the evidence of the complainant in the light of her allegations and has appreciated evidence of complainant Harpreet Kaur as PW1, PW3 Lachman Singh, PW4 Mewa Singh, PW5 ASI Gurmail Singh, PW7 Dia Singh, PW8 HC Labh Singh and PW9 Tarsem Singh. As has been contended on behalf of the petitioners it is the stand of the defence throughout that it was a simple marriage where no dowry articles were given or demanded and what has sought to be highlighted by the State counsel is that the defence certainly has remained unestablished to the effect that when Rampal Singh refused to help brother of the complainant for a loan of ₹2,00,000/- the present case was got registered and though has sought to examine DW1 Khazan Singh, DW2 Satya and DW3 Sukhwinder Singh to bring about the same but have remained unsuccessful. Undisputedly, the marriage between the parties took place on 7.7.2003 and the present FIR has been got registered on 4.5.2005 within two years of this marriage and the learned counsel for the petitioners squarely accepted

the contention of the State counsel that it was within the prescribed period of commission of offences under Section 406 and without loss of time within a reasonable time for other offences and, therefore, question of limitation qua these offences for which petitioners have been convicted stands ruled out. The disclosure statement alleged to have been made by the accused has led to recovery of certain articles within the terms of Section 27 of the Evidence Act and that the learned lower Appellate Court has considered this aspect and has held that since these articles so alleged to have been recovered do not fall within the definition of *Istri Dhan* and the gifts given at the time of the marriage also do not fall within the parameters of *Istri Dhan* and in the absence of any evidence on record as to the specific entrustment of these articles to any of the accused and their subsequent breach of trust held that no offence was made out which reflects that there is reasonable appreciation of the evidence by the Court below on each and every aspect of the matter and even while adjudicating on applicability of Section 506 has held that when factum of physical assault has already taken place then threat by way of criminal intimidation does not survives. Learned Additional Sessions Judge has taken into consideration the testimony of the complainant that after the marriage she was being continuously harassed and physically abused for which Panchayats were convened by her family and even to satisfy the accused her parents had to buy a motorcycle for her husband after they asked to fulfil their demand of a car and which fact has been materially corroborated by none other than mediator of the marriage Mewa Singh PW4. Deposition of the complainant Harpreet Kaur as to the physical assault is materially corroborated by the eye-witness account by Mewa Singh PW4 and Lachman Singh PW3 and there is specific averment that on 4.5.2005 she was assaulted by the accused and, therefore, causing of

simple hurt certainly cannot be put to doubt and has been rightly accepted by the Courts below. Since this evidence by the wife is cogent and corroborated on material aspect by the other witnesses and being a married woman subjected to physical as well as mental cruelty on account of demand of dowry and, thus, the petitioners have been rightly held guilty for commission of offences under Section 498-A and which simple hurt under Section 323 IPC as well as cruelty were in respect of demand by the accused husband Rampal Singh, mother-in-law Surjit Kaur and father-in-law Chamkaur Singh latter has been died during the proceedings.

Learned counsel for the petitioners could not convince this Court, how there has been wrong appreciation of the evidence or there has been gross miscarriage of justice and impropriety in the impugned judgment under assail. Thus, finding no fault in these conclusions the revision petition certainly is hopelessly without any merit and stands disposed off as dismissed.

(FATEH DEEP SINGH)
JUDGE

May 25, 2015
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