

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

Date of decision : November 15, 2016

1. CRA-S 1490 SB of 2009

Maya vs State of Haryana

2. CRR No.2208 of 2009

Om Parkash vs State of Haryana and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ashok Arora, Advocate
for the appellant in CRA-S No.1490 SB of 2009

Mr. Sudesh Sahi, Advocate
for Mr. Arvind Kashyap, Advocate
for the petitioner in CRR No.2208 of 2009.

Mr. Satish Saini, DAG Haryana

Ajay Tewari, J (Oral)

This order shall dispose of CRA-S No.1490 SB of 2009 and
CRR No.2208 of 2009.

The appeal has been filed against the conviction of the
appellant under Section 498-A of the IPC, and the revision has been filed
against the acquittal of the petitioner under Sections 304-B/306 of the

IPC.

As per allegations, on 12.2.2007, ASI Parkash Chander received an information that Babli daughter of Om Parkash wife of Karambir was lying injured in Soni Burns Hospital, Hisar. On being declared fit to make statement, her statement was recorded by the Magistrate. In her statement, she stated that she had caught fire accidentally but the appellant, who is the mother-in-law, used to harass her for dowry. The trial Court found that the statements of her parents alleging dowry death or suicide were exaggerated but gave credence to her dying declaration and, as mentioned above, convicted the appellant under Section 498-A of the IPC and sentenced her to undergo RI for two years, and acquitted her under under Sections 304-B/306 of the IPC.

Counsel for the appellant has argued that the statement of the deceased was highly inadequate in so much as no details or dates of harassment were given and the trial Court disbelieved the version of the parents. He has relied upon the testimony of PW9-ASI Parkash Chander, who stated that the deceased and her husband used to live and cook in a room in the house and consequently were living separately from the appellant.

Counsel for the complainant/revision-petitioner, and the learned DAG Haryana have argued that the trial Court erred in

disbelieving the testimony of the parents.

In my opinion, arguments of both the counsel for the parties are too extreme. As regards the argument of counsel for the appellant, of-course if it is a case where a person makes allegations under Section 498A of the IPC, normally there has to be mention of some details but where, as in the present case, the deceased was severely burnt, her dying declaration, in my considered opinion, cannot be required to be in such detail. On a reading of the dying declaration, it is clear that the appellant used to harass the deceased for dowry but the allegations of her parents that it was either dowry death or a suicide are not borne out. In the circumstances, the appeal against the conviction and the revision against the acquittal both have to fail. Faced with this scenario, counsel for the appellant has argued that the sentence of imprisonment for two years is on the higher side and it seems to have been coloured by the fact that the daughter in law had died. As per him, once the death was proved to be accidental the only allegation which has come on record is that the mother in law used to harass her daughter in law because she had not brought sufficient dowry. He has argued that the parties are from lower economic strata and in such situations, demand for dowry is not rampant.

I find some merit in the argument. In case where there is no death, allegations under Section 498-A of the IPC would not merit

punishment of two years sentence. Consequently, even while dismissing the appeal, I reduce the sentence of the appellant to one year RI. Let her now be arrested to serve out the remaining period of sentence. Revision petition is also dismissed.

November 15, 2016
`kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No