

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

CRM No.A-718-MA of 2010 (O&M)
Date of decision: August 27, 2016

Sangeeta

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashwani Bhardwaj, Advocate
for the applicant.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Naveen S. Bhardwaj, Advocate
for respondents No.2.

INDERJIT SINGH, J.

Applicant-Sangeeta has filed this application under Section 378 Cr.P.C. seeking permission for leave to appeal against respondents State of Punjab and Himanshu Chadha, challenging the impugned judgment dated 08.02.2010 passed by learned Addl. Sessions Judge, Ludhiana, whereby the appeal filed by the accused-respondent against the judgment of conviction and order of sentence dated 18.07.2007 passed by learned Chief Judicial Magistrate, Ludhiana, was allowed and he was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that judgment of acquittal has caused injustice to the applicant-appellant. It is, therefore, prayed that leave to appeal be granted.

The brief facts of the case are that challan was presented against Himanshu Chadha, Sarwan Kumar Chadha and Santosh Chadha in

case FIR No.99 dated 11.11.1999 under Sections 406 and 498-A IPC. The brief facts of the case as noted down in the judgment passed by learned CJM, Ludhiana, are as under:-

“2. Briefly stated the case of the prosecution is that one Satnam Rai son of Shri Bhim Chand, resident of 2301/2, Basti Abdullah Pur, Ludhiana made an application to the Superintendent of Police, Ludhiana stating therein that his daughter was married with accused Himanshu Chadha son of Sarwan Kumar Chadha, resident of H.No. 106, Sector-22-A, Chandigarh on 28-4-99. Accused Santosh Chadha is the mother-in-law, Ajay Chadha and Medha Grover, respectively, are the brother-in-law and siter-in-law of his daughter. The marriage was performed at Namdev Bhawan, Sector-21, Chandigarh. However, the ring ceremony was performed on 14.02.99 at Ludhiana. Various gifts i.e. Rs.21,000/- in cash, gold ring, 20 boxes of sweets, fruits, etc. were given to all the members of the bride-groom's family. At that time, accused Himanshu Chadha was given Rs.25,000/- and some gifts were given to the other accused. He had spent about Rs.55,000/- on the ring ceremony. On 17.04.99, a Preeti Bhoj was performed at Ludhiana and the same was attended by accused Sarwan Chadha. Some gifts, shagan and sweets were given to him on that occasion also. The furniture and clothes purchased from Ludhiana were also handed over to the accused on 24.04.1999 i.e. four days prior to the marriage. The marriage was solemnized at Chandigarh on the insistence of the accused. At the time of marriage, he had given the dowry according to his capacity. He had handed over 24 tolas of gold ornaments to accused Sarwan Kumar Chadha. One gold ring, the domestic items like Kinetic Honda, washing machine, Fridge, wooden furniture were also given at the time of marriage. The colour television was given at the time of 'roka ceremony'. All these articles were handed over to Ajay Chadha and Sarwan Chadha, Saghan was given to all the important members of the bride-groom's family. Five suits, five sarees were given to accused Santosh Chadha and clothes were given to 35 members of the bride-groom's family. He had spent about Rs.1 lac for arranging food for the marriage party, which consisted of 350 members. Soon after the marriage, accused Santosh Chadha asked his daughter to hand over all the ornaments to her for security purposes. Even the accused Sarwan Kumar Chadha and Himanshu Chadha insisted that the daughter of the complainant could not foresee the intentions of the accused and she had handed over all her gold ornaments, in good faith to Smt. Santosh Chadha and Shri Himanshu Chadha. Accused Medha Grover had also assured full security to the said articles. On 22.05.1999, when the daughter of the complainant along with her husband visited the house of the

complainant, they were given Shagans and various gifts. It has further been alleged that the accused were not satisfied with the dowry given by him and they used to harass the daughter of the complainant for having brought inadequate dowry. They used to taunt her by saying that they were expecting a car, but only a Kinetic Honda had been given. They raised the demand of Rs.1 lac for the purpose of building house. On 08.06.1999, they had tortured the daughter of the complainant physically as well as emotionally for not arranging the amount of Rs.1 lac. The complainant had given Rs.50,000/- on that day for the betterment of his daughter. However, the accused again started maltreating the daughter of the complainant and told her that either she should arrange a car or she will have to face the evil consequences. When the whole family of the bride-groom had come to Ludhiana, the complainant had paid Rs.50,000/- to them on 15.06.1999. It has further been alleged that accused Smt. Santosh Chadha, Medha Grover and Ajay Chadha and Himanshu Chadha used to beat the daughter of the complainant for one or the other reason. Smt. Santosh Chadha used to say that the dowry articles were not of good quality. The daughter of the complainant was maltreated for dark complexion and was told that she was not of the liking of Himanshu Chadha. She should herself go to her parental house, otherwise they will put her on fire. It has further been alleged that Medha Chadha and Ajay Chadha also used to taunt the daughter of the complainant.

On 22.08.1999, accused Sarwan Chadha, Santosh Chadha, Himanshu Chadha, Ajay Chadha and Medha Grover made a plan to burn the daughter of the complainant with kerosene oil. However, his daughter had cried loudly and her cries had attracted the neighbours who saved her by opening the door. The accused told the neighbors that in fact the daughter of the complainant wanted to commit suicide. The complainant has further alleged that in fact his daughter had got booked an Indica car prior to her marriage and on that day she had sold the same through some dealer in Chandigarh. She had obtained Rs.10,000/- as advance money towards the price of the siad car. She had refused to give the same to her in-laws. The complainant has further alleged that he was away from Ludhiana on 22.08.1999. On his arrival he came to know about the occurrence and went to Chandigarh. He tried to prevail upon the accused but they refused to talk to him. He had realized that it will not be possible for his daughter to continue living with the accused and he came back with an expectation that good senses will prevail upon them. On 25.08.1999, accused Sarwan Chadha, Himanshu Chadha along with the daughter of the complainant came to Ludhiana. They had left the daughter of the complainant at parental house after telling that he can send his daughter only after arranging Indica car. A request was made to the accused to return the dowry articles and even the daughter of the

complainant had made a request in this regard, but the accused have refused to return the dowry articles. Accused Santosh Chadha and Himanshu Chadha were requested to hand over the jewellery belonging to the daughter of the complainant, but they too refused. The complainant has further alleged that his daughter is an earning hand and is employed in the Hon'ble Punjab and Haryana High Court, Chandigarh. However, she gives her entire salary to her in-laws but still she has been getting very bad treatment.

The said application was marked by Superintendent of Police (Headquarters) to S.H.O. P.S. Model Town, for conducting an enquiry. After receipt of enquiry report from the concerned police officials, the matter was referred to D.A. (Legal), who recommended the registration of the case. Thereafter, FIR no. 99 dated 11.11.99 under sections 406/498-A of the Indian Penal Code was registered against the accused at P.S. Model Town, Ludhiana. During the course of investigation, the Investigating Officer recovered the dowry articles from the house of the accused situated at Panchkula. The accused were granted anticipatory bail by the Learned Sessions Judge, Ludhiana. The police found that accused Ajay Chadha and Medha Grover were innocent. Statements of the witnesses under section 161 of the Cr.P.C., were recorded.

On completion of investigation, challan against accused Himanshu Chadha, Sarwan Kumar Chadha and Santosh Chadha was presented before the court.”

Learned CJM, Ludhiana, after appreciating the evidence, acquitted accused Santosh Chadha and convicted and sentenced accused Himanshu Chadha and Sarwan Chadha under Section 498-A IPC. Appeals were filed by accused-respondents and learned Addl. Sessions Judge, Ludhiana, accepted the appeals and acquitted the accused-respondents vide impugned judgment dated 08.02.2010.

Aggrieved from impugned judgment dated 08.02.2010, present application seeking leave to appeal has been filed by the complainant-applicant.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the application.

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

From the record, I find that learned Addl. Sessions Judge, Ludhiana, while discussing the evidence held that close perusal of oral testimony of PW-1 and PW-3 would show that dowry in this case was in fact given along with customary gifts to the near and dear of the husband's family except kinetic Honda. It is proved on record that the kinetic honda was purchased by the parties to the marriage jointly and a sum of `17000/- was received by PW-1 pursuant to the order of Hon'ble High Court in Criminal Misc. No.10525-M of 2000. The Court held that there is not even an iota of evidence that dowry was demanded by the accused side. PW-1 Sangeeta herself admitted that entire *Istridhan* had reached her matrimonial house. The almirah, double bed, dinning table, dressing table were kept in her room whereas articles of common use were kept in the parts of the house used by her and other members of her in-laws family. Her clothes were kept in her almirah and she had been wearing jewelry at the time of her marriage. She had access to all the articles of dowry and was even using the same. She has also admitted that almirah was placed in her bed room and the bed room was used by herself and her husband. Empty jewelry boxes were recovered from the said almirah in which she used to keep her jewelry. She further stated that said jewelry was not placed in these boxes. As per her, the jewelry was taken by accused Santosh Chadha from her on 24.05.1999 for keeping it in locker of the bank. But no locker number nor the name of the bank was disclosed by her. No evidence even was led by the prosecution that accused side had any such locker. She admitted that before

admitted that fact of handing over jewelry is not mentioned in her complaint Ex. PX and her statement to the police u/s 161 Cr.P.C. Ex.PY. She also admitted that she had in her possession and use the almirah with locker in the matrimonial house which was later on taken into possession by police and was opened with keys taken by her father from her. The stand of the accused is that on 25.08.1999 while leaving for Ludhiana for rakhi festival in respect of which leave was already taken by her from her office, she took with her jewelry in hand bag and wearing clothes which she could possible take in two big bags. She locked her almirah and the TV set. In this connection, a report was made to the police on 26.08.1999, the very next day of her leaving Chandigarh and brought on record certified copy of statement of HC Rajinder Singh as DW-2 in divorce petition between the couple. She admitted that she left Chandigarh on 25.08.1999 for Rakhi festival. In her petition before this Court for cancellation of bail, she demanded educational certificates and one kinetic honda scooter. She claimed to have also demanded unrecovered dowry articles but feigned knowledge if she specifically mentioned these items therein or not. In the order of return of amount of kinetic honda scooter, there is no mention qua jewelry items. The Court also found that Advocate of the accused made statement before the court that no educational certificates are in possession of the accused. The Court further found that the TV set was found locked in the almirah and jewelry boxes were found empty at the time of recovery of other articles and the almirah was also opened with the help of key supplied by PW-1 herself through her father. It is further held that there is absolutely no evidence that complainant ever put up a demand that her dowry items be

Sessions Judge, Ludhiana disbelieved the version regarding harassment on account of complainant's dark complexion and for inadequate dowry. The Court further held that payment of installment of kinetic honda scooter by Himanshu Chadha shows that PW-1 Sangeeta was in touch with the husband before the marriage.

Learned Addl. Sessions Judge, Ludhiana, has discussed all these facts in minute detail and found that a reasonable doubt exists in the prosecution version regarding harassment of PW-1 on the ground of dowry. The perusal of the findings given by learned Addl. Sessions Judge, Ludhiana shows that findings have been given as per evidence and law. The evidence has been appreciated in right perspective. In no way, the findings given by learned Addl. Sessions Judge, Ludhiana can be held as perverse or against the law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by learned lower Appellate Court. Nothing has been pointed out as to how the findings given by learned Addl. Sessions Judge, Ludhiana are perverse and what illegality has been committed.

In view of the above discussion, I find that the impugned judgment dated 08.02.2010 passed by learned Addl. Sessions Judge, Ludhiana, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

August 27, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No