

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

Crl. Misc. No. A-1028-MA of 2016

Date of decision : 21.11.2016

Anju Devi

....Applicant

versus

Rahul and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.P. Sangawan, Advocate
for the applicant

RITU BAHRI, J. (Oral)

CRM-16541-2016

For the reasons mentioned in the application, delay of 19 days in filing of the present appeal is condoned.

The application stands disposed of accordingly.

CRM-A-1028-MA-2016

This application has been filed under Section 378(4) Cr.P.C seeking leave to file an appeal against the judgment of acquittal dated 19.02.2016 vide which respondents were acquitted of the charges framed against them.

Heard.

The complainant filed a complaint alleging therein that on 20.01.2007, the applicant/complainant solemnized marriage with Rahul as per Hindu rites and ceremonies at Charkhi Dadri. Her parents had spent about Rs.2 lacs and gave dowry articles. After marriage, the husband and his family members starting harassing the complainant on account of bringing less dowry and demanded a Hero motorcycle and Rs.50000/- cash and further respondent No. 2 demanded a necklace. The complainant alleged that she is a simple girl whereas her husband is a habitual

drunkard and thus used to give beatings to the complainant. She further stated that the accused gave beatings to the complainant and accused No. 2 gave slaps and fist blows. On 15.05.2008, she was turned out of the matrimonial home along with minor child. Since then, the complainant had been residing with her parents. Panchayat was convened many a times but the accused refused to rehabilitate the complainant and her child till their demand of dowry was satisfied. The accused even did not return the istridhan.

In her preliminary evidence, the complainant examined CWI to CW4. Vide order dated 28.07.2011, the accused were summoned to face trial for commission of offence under Section 498-A/406/323/34 IPC, to which accused appeared and were enlarged on bail.

In her pre-charge evidence, the complainant examined P.W.1 to P.W.8. Prima facie, a case under Section 498-A/406/323/34 IPC was made out against the accused and charges were framed to which they pleaded not guilty and claimed trial. The complainant closed her evidence on 09.12.2015 and accused were examined under Section 313 Cr.P.C and they pleaded false implication and relied upon Ex D1 application moved before SHO, P.S., Usmanpur Delhi and newspaper item dated 21.08.2008 of public notice whereby accused Radha Devi completely disowned her son and his wife Anju being upset with their disputes. The application also revealed that on 03.03.2008, the complainant voluntarily left the matrimonial home along with her mother.

After going through the entire evidence, the trial Court acquitted the accused on the ground that the complainant failed to produce evidence to bring home the charge to the accused who could not be criticized only on the basis of testimony of interested witnesses. The provisions of Section 498-A IPC have been specifically enacted to protect vulnerable married women who are the victims of the

cruelty and harassment at the hands of their husbands and their close relatives. Further there were no specific allegations/overt acts and prima facie material against the accused to show that the accused were entrusted dowry articles and they misappropriated the same. Mere demand of money also did not constitute the offence of cruelty and there was no iota of evidence to the effect that the complainant was subjected to cruelty. Further the the prosecution was only supported by the interested witnesses i.e father of the complainant, her brother and maternal uncle and thus, could not be held to be relied upon without insisting for corroboration from an independent source. The plea of fraud was also not duly substantiated on record and the alleged stamp papers did not bear the name of the complainant.

Counsel for the applicant has not been able to point out any other evidence which the lower Court has misread or which can lead to conviction of the accused under Section 498-A/406/323/34 IPC.

Thus, the trial Court has rightly acquitted the accused by giving them benefit of doubt by referring to cases of *Mukti biswas vs. State of West Bengal, 2013(1) CCJ 148 (Calcutta)*, *N. Suriyakala vs. A. Mohandoss and others, 2007(2) CCC 274 (S.C)*, *Rajesh Kumar and others vs. State of Haryana, 2008(2) CCC 348 (P&H)..*

Accordingly, the application seeking leave to file an appeal is hereby dismissed.

November 21, 2016
G Arora

(RITU BAHRI)
JUDGE