

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1316-MA-2016
Date of Decision:- 29.08.2016

Reena

....Petitioner

Versus

Naveen and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.N. Singal, Advocate,
for the petitioner.

RITU BAHRI, J. (Oral)

Petitioner-complainant has filed the present application under Section 378(4) Cr.P.C. for seeking leave to appeal from the judgment dated 12.06.2015 whereby learned Judicial Magistrate 1st Class, Rewari has dismissed the complaint under Sections 406, 498, 323, 506 and 34 IPC, filed by her against her husband Naveen and Anil sons of Sh. Ram.

Briefly the facts of the case are that the marriage of complainant and her elder sister Pooja was solemnized with Naveen and Anil on 06.03.2006, as per Hindu Rites and Rituals. As per the allegations levelled in the complaint, parents of the complainant had given sufficient dowry as per their status. However, accused did not satisfy with dowry and have started cruelty, maltreatment and taunting to the complainant and her sister for bringing less dowry. Accused Dhanpati, who was a greedy lady, taunted them that if they wanted to live happily in house, then they have to

ask their parents to give motorcycle to accused Naveen and Anil. After disclosing the said demand to their parents on 08.03.2006, when complainant and her sister came to their matrimonial home, the beatings were given by the accused to complainant and her sister. Brother of the complainant visited her house and again a demand was raised by accused from him. An attempt was made by the father of the complainant along with maternal uncle with folded hands with the request that they are not in a position to give motorcycle as dowry but accused did not pay any heed to their request. Thereafter, a panchayat was convened but all in vain and consequently complainant and her sister were taken by her parents with them. Birth of son of complainant and elder daughter of Pooja took place at their matrimonial home but the greed of her in-laws did not satisfy rather they started beatings again to complainant and her sister. Both the sisters were not allowed to talk on telephone with their parents. On 09.11.2008, when accused Anil, Naveen and Dhanpati went to village Churiawas to attend marriage of daughter of their aunt (*Bua*), then parents of complainant along with her uncle Rajesh, Rajinder, Vinod and other family members were also met them there. On account of altercation took place there, the accused gave beatings to father of complainant and thereafter parents of the complainant took the complainant and her sister Pooja with them and since then they are residing with them in their house. The accused kept their *Istridhan* and misappropriated the same. In this background, the complaint was filed by the complainant against the accused persons.

After recording the preliminary evidence, accused Naveen and Dhanpati were summoned by the learned Judicial Magistrate, Rewari, vide order dated 09.01.2010.

After recording of pre-charge evidence, in which, complainant appeared as PW-1 and examined PW-2 Rajesh Kumar son of Babu Lal, PW-3 Om Parkash son of Chander Singh, PW-4 Kundan Lal son of Babu Lal (father of the complainant), PW-5 Sunil Kumar son of Kundan Lal (her brother), PW-6 Pooja (her sister) and PW-7 Asha Ram Sharma son of Pehladutt Sharma, all the accused were charge-sheeted under Sections 498-A, 406, 323, 506 and 34 IPC, by the learned JMIC, Rewari, vide order dated 23.01.2015. After framing of charges, the statements of the accused under Section 313 Cr.P.C. were recorded on 11.02.2015.

After hearing the learned counsel for the parties, the trial Court was returned the finding there may be bickering in the marital life between the husband and wife and consequential outbursts either by the husband or by the wife. Such bickering between the spouses might lead to disharmony in the family life. There was no complaint by complainant Reena with regard to physical and mental torture up to 07.09.2009 till she filed the present complaint before the Court and started with her parents. While Reena stepped into witness box, she levelled allegations that she was subjected to physical and mental torture before and after desertion of matrimonial home. The main allegations pointed out by her that accused persons demand a motorcycle to fulfill their illegal demand of dowry. Hence, suffice to say that no evidence of cruelty and mental torture magnitude as part of the accused with a view to derive the complainant to leave the home or force to commit suicide or grave injury etc. placed on record to fulfill ingredient of charges framed against accused. The demand of motorcycle was general in nature as no model was mentioned in the

and the complainant was not able to give any specific date, time and year of specific instance regarding harassment, cruelty and demand of dowry. In the absence of any evidence, the demand of dowry and harassment under Section 498-A IPC was found to be doubtful.

Reference was made to the judgment of Hon'ble Apex court in case of **Arnesh Kumar Vs. State of Bihar and another**, Criminal Appeal No.1277/2014, decided on 02.07.2014 where the Hon'ble Supreme Court has consistently taken a view that increasing number of cases of abuse of Special Legislations have come to light and instances are not rare where the women protection laws have been used as weapons for settling personal scores in case of marital discord. Misuse of anti-dowry laws and Domestic Violence Laws is a matter of serious concern.

With regard to offence under Section 406 IPC, there was no evidence to show any demand and refusal to return the dowry articles. PW-1 Kundan Lal, father of the complainant, deposed that he has spent about ₹7,50,000/- on marriage. However, neither bills regarding expenditure on marriage nor remember specific date, month and year for entrustment and demand of dowry were given and the allegations under Section 406 IPC were also not proved.

With regard to offence under Sections 323 and 506 IPC, the same were not made out as there was no mention that the said threats caused alarm to the complainant or to any other person.

Consequently, the trial Court after going through the evidence and record, acquitted of the charges levelled against the accused persons by the complainant, vide judgment of acquittal dated 12.06.2015.

Aggrieved thereby, now petitioner-complainant Reena, has

preferred the instant petition for leave to appeal, to challenge the impugned judgment of acquittal, invoking the provisions of under Section 378(4) Cr.P.C.

After hearing the learned counsel for the petitioner, going through the judgment of trial Court, this Court is of the considered view that the petitioner has miserably failed to produce any cogent evidence on record to prove the charges against the accused. Therefore, no interference is warranted in the impugned judgment dated 12.06.2015, passed by the Judicial Magistrate 1st Class, Rewari. Such judgment, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited jurisdiction of this Court under Section 378(4) Cr.P.C., unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner-complainant, so, the impugned judgment deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant petition to leave to appeal is hereby dismissed as such.

August 29, 2016
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No