

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-5-MA-2016

Date of Decision:-04.07.2016

Rita Bammni

....Applicant-appellant

Versus

Sat Pal Sandhu

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Manmohan Singh Kang, Advocate
for the applicant-appellant.**

RITU BAHRI, J. (Oral)

Present application under Section 378(4) of the Criminal Procedure Code for grant of special leave to appeal from the judgment of acquittal dated 19.10.2015, passed by learned Judicial Magistrate, 1st Class, Jalandhar whereby the complaint filed by the applicant-complainant (hereinafter to be referred as 'the complainant'), under Sections 406 and 498-A IPC has been dismissed.

The complainant was married to respondent-Satpal Sandhu (hereinafter to be referred as 'the respondent') on 18.10.1996 at Lions Club, Ludhiana. The marriage and other ceremonies were performed by the parents of the complainant after spending of ₹5,00,000/-. The complainant on account of bad behaviour of the respondent was physically and mentally tortured. Thereafter, at the time of marriage of her brother on 19.11.2000, a

demand of dowry of ₹2,00,000/- was made from the mother of the

complainant. Thereafter, a panchayat was convened where the respondent felt sorry for his acts and promised not to repeat rehabilitate the complainant. His behaviour did not change and thereafter a complaint was made before the Senior Superintendent of Police, Jalandhar and the SHO Women Cell, Jalandhar. He again promised that he will not beat the complainant in future for the demand of dowry. Thereafter, on 24.03.2006 the respondent again started beating the complainant with the result her ear became deaf. She got the treatment from Dr. V.A.K. Pathak, Ludhiana and spend ₹20,000/-. Further a plot was booked at Mohali and the entire money of the plot amounting to ₹2,25,000/- was paid by the complainant, vide bank Draft dated 08.06.2001 and was withdrawn from her bank account. Thereafter, the plot was booked in the name of respondent. The dowry articles never returned to the complainant on her demand as the same is *Istri Dhan*. Hence, the present complaint has been filed.

On the basis of pre-charge evidence, the respondent was charge-sheeted under Sections 406 and 498-A IPC on 09.05.2014. Accused- Pritam Kaur was ordered to be discharged. The following three points were considered by the trial Court after recording of evidence: -

- “1. Whether from 19.11.2000 accused Satpal being husband of complainant Rita Bammni converted the dowry articles to his own use and committed criminal breach of trust in the said entrusted property? If so effect.
2. Whether on the same day time and place accused Satpal being husband of Rita Bammni subjected her to cruelty for bringing insufficient dowry and also demanded more dowry from her? If so effect.
3. Whether on 24.03.2006, accused Satpal voluntarily hurt grievous hurt to complainant Rita Bammni by giving severe beatings on her ear? If so effect.”

Learned counsel for the complainant did not argue the finding of the trial Court on point No.1 as there was no record to show that the

dowry articles were specifically demanded by the accused at the time of marriage of the complainant. As per the deposition of the complainant (PW-1) and deposition of her brother Rajinder Kumar (PW-2), the allegations were not made out. With regard to the beatings given to complainant on 24.03.2006, the deposition of Dr. V.A.K. Pathak (PW3) would be relevant as he proved the medical certificate dated 29.03.2006 Ex.CW3/1 where he observed that Rita Sandhu was suffering from traumatic rupture of left ear drum. In his cross-examination, he categorically deposed that this document was not the original certificate issued by him as there was no description of injuries given by him in the said certificate. In view of the deposition of Dr. V.A.K. Pathak (PW-3), the Court came to a conclusion that the complainant might have a medical problem in her ear drum but the same was not sufficient to prove that the said injuries was caused by the accused. Moreover, the incident took place on 24.03.2006 as per the complainant at Jalandhar and she went to Ludhiana for medical treatment next day. Despite having the alleged grievous hurt on her person, she did not undergo any further treatment. In the absence of any original certificate coupled with the fact that PW-2 Rajinder Kumar deposed that he was not present at the time of incident dated 24.03.2006, the trial Court has rightly come to a conclusion that the domestic dispute had been given a shape of a criminal case by way of the present complaint. Moreover, in order to convict the respondent under Section 498-A IPC, the complainant had to prove that the accused had caused harassment to meet out his unlawful demands of dowry. The unlawful demand for valuable property or security has not been proved as the respondent had paid installment of the loan which had been taken on purchase of House No.1186 urban Estate,

Jalandhar. As per the testimony of DW-1 Shakuntala Rani, CDPO, Rurka Kalan, who proved on record her report as Ex.D1/A, which was prepared by her, being CDPO, the complainant was not subjected to any violence. Moreover, as per the deposition of PW-1 Rita Bammni, she along with her husband approached Vardhan Hospital, where they got IVF in the year 2003 and she further admitted that no abortion took place on account of beatings given to her by the respondent.

After hearing the learned counsel for the applicant, going through the record, this Court is of the considered view that the trial Court has rightly come to a conclusion in view of the evidence led above that no offence under Sections 406, 498-A and 325 IPC is made out against the respondent. The complaint has been rightly dismissed after appreciating the evidence led by the complainant and defence. Therefore, no interference is warranted in the impugned judgment dated 19.10.2015 passed by the Judicial Magistrate, 1st Class, Jalandhar, 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 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.

July 04, 2016

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(RITU BAHRI)
JUDGE