

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-11357 of 2016 (O&M)

Date of Decision: 08.7.2016

Davinder Kaur

.....Petitioner

Versus

Nishan Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the digest?

Present: Mr. B.S.Jatana, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

CRM-19880-2016

Heard.

Application is allowed and Annexures P-11 to P-15 are taken on record.

CRM-M-11357-2016

This petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 3.7.2014 passed by SDJM, Sardulgarh vide which the complaint filed by the petitioner under Section 498-A, 406, 34 IPC was dismissed. The order was maintained and the revision filed by the petitioner was dismissed. Aggrieved by both the orders, the complainant has filed this petition. She has also assailed the order dated 17.12.2015 vide which the application for additional evidence had been dismissed.

The backdrop of the case is necessary. The petitioner was married to respondent No. 1 on 3.4.2005. A child was born to them.

Disputes arose between the couple. Allegations were levelled that the husband and his family were greedy and were not satisfied with the dowry and started making demands. It was urged that on 18.9.2007 demand of ₹ 5,00,000/- was made on the pretext that Nishan Singh was to go to Australia. When the complainant expressed her inability she was beaten up and an attempt was made to set her ablaze by sprinkling kerosene oil. She immediately informed her father telephonically. FIR No. 129 dated 22.11.2009 was registered under Section 498-A, 406 IPC at P.S. Sardulgarh. During the pendency of the case Nishan Singh went to Australia. He returned to India in March 2009. Challan was presented and the trial commenced. The complainant did not support the prosecution story at the trial and turned hostile. The trial ended in acquittal.

Later a complaint on the same allegations was filed against Nishan Singh, his mother and Balwinder Singh. The allegations levelled in the FIR were reiterated. The trial Court recorded preliminary evidence and refused to summon the accused and dismissed the complaint on 3.7.2014. Aggrieved with the order a revision was filed. An application under Section 391 Cr.P.C. was also filed for placing some additional material namely copy of the petition, copy of the judgment in the petition filed under Section 13 of Hindu Marriage Act and the order passed in the complaint filed under the Domestic Violence Act.

Copy of the FIR No. 55 dated 1.4.2010 P.S. City Dhuri registered under Section 420, 465, 467, 468, 471, 120-B IPC is available on record. The Revisional Court dismissed the application as well as the revision. The Revisional Court elaborately dealt with the evidence in para 8 of its judgment. It was also noted that there were no details as to the dowry

articles that were given and no proof regarding purchase of the articles had been given and once the accused had faced the trial and were acquitted they could not be summoned to face the trial on similar grounds.

Counsel for the petitioner counsel refers to '***Smt. Rashmi Kumar vesus Mahesh Kumar Bhada 1999(2) R.C.R. (Criminal) 43***' and urges that after the compromise same demands and harassment started and therefore the complaint had to be filed and at the preliminary stage the Court was only to see whether *prima facie* case was made out for proceeding further and there was ample material before the Court and they should have acted on the evidence that was led before it.

The petitioner had placed on record the FIR that was registered in 2007 as well as the statements made by the complainant.

A perusal of the complaint shows that the complainant had made the same allegations in the FIR in 2007 and the accused were acquitted as the complainant failed to support her own version. Both the Courts below had noted that there was no details to support her contention that any dowry was given.

I find no infirmity in the findings recorded by the Courts below.

Petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

July 08, 2016
Gurpreet