

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-21308 of 2013

Date of decision : 10.02.2016

Parvesh Kumari

..... Petitioner

versus

Hardeep

... Respondent

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?
3. Whether the judgment should be reported in the digest?

**Present: Mr. Raj Kapoor Malik, Advocate
for the petitioner**

**Mr. Navmohit Singh, Advocate
for the respondent**

ANITA CHAUDHRY, J.

This is a petition filed under Section 482 Cr.P.C. for quashing the order dated 09.05.2012 passed by Additional Chief Judicial Magistrate, Kaithal in an application filed under Section 125 Cr.P.C. and the order dated 16.05.2013 passed in the revision petition.

Parvesh Kumari claimed that she was married to Hardeep on 16.03.2003 and a child was born in 2006. Parvesh was earlier married to the brother of Hardeep and after his death in a road accident she claims that she was married to the respondent. Allegations were levelled that huge amount was spent on the marriage but the family members were not satisfied and they demanded more dowry and taunted her for bringing insufficient dowry.

The petitioner had alleged that she was beaten up and thrown out of the

house. At her instance a Panchayat was convened which was attended by her and her brother and an assurance was given that she would be kept properly. Allegations were levelled that on 14.06.2005, the husband and his family members tried to kill her by pouring kerosene oil but luckily she survived. She was pregnant at that time and was beaten up and thrown out from the matrimonial house. Another Panchayat was convened. The petitioner demanded Istridhan which was refused and the FIR under Sections 406, 498-A and 506 was registered.

The petitioner had claimed that she was unable to maintain herself and her minor daughter and the husband was having sufficient income. It was stated that he owned agricultural land and was earning Rs. 20,000/- per month and was running a Max Cab Jeep.

The respondent contested the petition and denied that any dowry articles were entrusted. It was pleaded that petitioner left the matrimonial home on her own. It was denied that any Panchayat was convened. It was pleaded that petitioner No. 1 was earning Rs. 5000/- per month and had a fixed deposit of Rs. 1,00,000/-. It was claimed that he was ready to keep the petitioner but she was not ready to join his company.

By way of evidence the petitioner examined herself and her brother. Copy of the challan was also introduced in evidence. The respondent examined himself and produced copy of the judgment Ex. R-1. By way of rebuttal the petitioner produced copy of her passbook and the statement of account. The trial Court after examining the evidence that was led before it, noted that the trial had ended in acquittal and it also noted that petitioner did not want to return to the matrimonial home and there was no evidence that any Panchayat was held. There was no evidence that she was beaten up. It had also noted that the petitioner used to teach in a school and had the capacity and capability to earn. Maintenance was denied to the wife

whereas Rs. 1200/- per month maintenance was allowed to the child by the Addl. Chief Judicial Magistrate, Kaithal on 09.05.2012.

Aggrieved with the order a revision was preferred which was dismissed on 16.05.2013.

I have heard both the sides.

The counsel had referred to the statement made by the petitioner before the Court below and had urged that the wife was entitled to maintenance and no evidence had been led that she was working and simply because the trial had ended in acquittal would not mean that she had intentionally stayed away from the matrimonial home and the fact was that she was beaten up and thrown out of the matrimonial home and the husband owned a vehicle and was earning more than Rs. 20,000/- per month. It was urged that he also owned agricultural land.

The submission on the other hand was that false allegations had been levelled by the wife and the Revisional Court had noted that it was Kareva marriage and the brother of the husband had died after two months of the marriage and it was out of the sympathy that girl was adjusted and there was no question of demand of dowry and the girl did not want to stay in the house and left the matrimonial home. It was urged that the petitioner failed to join the husband's company and when the wife stays away from the matrimonial home without reasonable cause she is not entitled to maintenance.

The child had been allowed maintenance. The husband and his parents were tried in a case registered under Sections 406, 498-A, 506 PC. The FIR had been registered in 2005. They were acquitted in 2011. The petition under Section 125 Cr.P.C. had been filed in 2006. The wife had claimed that she was beaten up and thrown out of the house when she was pregnant. She had stated that Panchayat had been held. No evidence

could be led to show that any Panchayat was held. No MLR was produced. The petitioner also failed to give the registration of the Max Cab Jeep being driven by the husband. She could not produce the copy of the jamabandi to show the land owned by the husband. Both the Courts had noted that the wife was intentionally staying away from the matrimonial home and had rejected the allegations of the petitioner that there was any demand of dowry. The petitioner admits that she had received the compensation from the Claims Tribunal. The amount was deposited in her account.

I find no infirmity in the findings recorded by both the Courts below that it was a wife who was staying away from her matrimonial home. She had failed to perform her matrimonial duties. Consequent upon the death of the first husband the family was not obliged to marry the real brother of the deceased but the family had adjusted the girl in the family. Kuldeep had died within two months of the marriage. In such kind of marriages there could be no demand. The family had only settled the widow by marrying her to the second brother. The trial Court had acquitted the husband and his parents thus falsifying the allegations. Both the Courts have examined the evidence minutely and I find no infirmity or illegality in the orders passed.

The petition is dismissed.

February 10, 2016

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**(ANITA CHAUDHRY)
JUDGE**