

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

**CRR No.1117 of 2008 (O&M)
Date of decision: 24.09.2016**

Kusum Lata

.....Petitioner

Versus

Shri Jaswinder Beniwal and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dilpreet Singh, Advocate,
for the petitioner.

Mr. N.S. Shekhawat, Advocate,
for the respondents.

Ritu Bahri, J.

This petition has been filed against the order dated 17.12.2007 passed by the Chief Judicial Magistrate, Hisar, whereby accused-respondents have been discharged under Sections 498-A, 323, 148, 149 IPC.

Initially, an FIR No.348 dated 16.06.1997, under Sections 498-A, 323, 148, 149 IPC had been got registered by Kusum Lata wife of Jaswinder Singh at Police Station, Civil Lines, Hisar. In that case, after completion of investigation, a cancellation report was filed, which was not accepted by the Judicial Magistrate Ist Class, Hisar and vide order dated 14.05.2002, accused Jaidev, Shanti Devi, Jitender Jaswinder were summoned to face trial under Section 498-A read with Section 34 IPC. Besides the above

accused, Manjeet @ Bittu, Babloo, Balta @ Balwant and Mange Ram were summoned to face trial under Section 323 read with Sections 148 and 149 IPC while taking cognizance under Section 190 Cr.P.C.

After examining the pre-charge evidence led by the complainant, the trial Court came to a conclusion that the allegations of beatings at the hands of accused-respondents were fake and baseless. There was no motive on the part of Manjeet @ Bittu, Babloo, Balta @ Balwant and Mange Ram to beat the complainant. There was history chequered litigation by the complainant against the accused persons, as reflected from the judgment, Ex.D3, whereby accused-Jaswinder Singh had been acquitted. He had faced trial under Section 307 IPC and was acquitted in that case vide judgment dated 14.12.2002. Similarly, vide judgment dated 23.03.2004 (Ex.D4), another accused namely, Satish, who was friend of Jaswinder Singh, had been acquitted. This case was also lodged at the instance of complainant-petitioner. The complainant could not even prove the factum of her first as well as second marriage. Claim of Kusum-complainant (PW-1) was that she was married to Jaswinder Singh on 25.10.1995. However, no witness has been examined to prove the marriage ceremony. Roshani Devi (PW-2), mother of complainant-petitioner, did not state anything about the first marriage of complainant with Jaswinder Singh in a house at Chandigarh. She had stated that her daughter-Kusum Lata was married to Jaswinder Singh in Arya Samaj Mandir, Chandigarh, as per Hindu rites and ceremonies on 18.04.1997. It has further come on record that mother of the complainant had got registered FIR No.8 dated 18.01.1995, under Sections 363/366 IPC against Sanjay Phogat, alleging that her daughter (complainant) had eloped with him in the year 1995. Thereafter,

complainant-Kusum Lata had given an affidavit (Ex.DA) stating that she had not eloped with Sanjay Phogat, rather, she had come to Chandigarh at her own will, independently and separately. She had left the house on 14.01.1995 due to harassment, maltreatment and cruelty committed by her parents. She had further stated that the aforesaid FIR had been registered against Sanjay Phogat under some misconception. The marital status of the complainant could not be proved by leading cogent and convincing evidence. The allegations of harassment, cruelty and demand of dowry were found to be false and baseless. With the above observations, the trial Court discharged the accused-respondents vide order dated 17.12.2007. Hence, this petition.

Upon notice, the respondents have placed on record copy of Crl. Misc. No. M-3768 of 2009 (Annexure R-1), which was filed by Kusum, Roshni and Suman for quashing of FIR No.161 dated 11.04.2005, under Sections 452, 506, 34 IPC registered at Police Station, Civil Lines, Rohtak. In the said petition, petitioner (Kusum) had stated that she was married to Sumant son of Ram Dutt (respondent No.2 in that petition). The respondents have also placed on record copy of judgment dated 14.12.2002 (Annexure R-3) passed by the Additional Sessions Judge (Ad hoc), Hisar, whereby Jaswinder Beniwal-respondent No.1 has been acquitted of the charge under Section 307/427 IPC. Those criminal proceedings were initiated on a complaint made by Kusum Lata (present petitioner). Further, vide judgment dated 30.11.2010 (Annexure R-4), Jaswinder Singh was acquitted in another case under Section 379 IPC, which was also initiated on a complaint made by Kusum Lata. Petitioner had also filed a petition under Section 13 (I)(ia) & (ib) of Hindu Marriage Act for dissolution of marriage by decree of

divorce. The said petition was dismissed vide judgment dated 24.08.2012 (Annexure R-5) passed by the Additional District Judge, Chandigarh on the ground that Kusum had failed to prove that she was legally wedded wife of Jaswinder Singh and her marriage was solemnized on 18.04.1997 as per Hindu rites and rituals at Arya Samaj Mandir, Sector 22, Chandigarh. This judgment has attained finality as no FAO has been filed against the same. Petitioner had also filed a suit for permanent injunction restraining defendant-Jaswinder Singh from contracting second marriage. The said suit was later on, dismissed as withdrawn vide order dated 30.04.1997.

Perusal of all the above documents shows that the petitioner has miserably failed to prove that she was married to respondent-Jaswinder Singh. Since the petitioner has failed to prove on record that she was legally wedded wife of Jaswinder Singh, the allegations of cruelty and demand of dowry have rightly been held to false and baseless by the trial Court. Moreover, the petitioner has a chequered history of filing complaints against the respondents, in which, they have been acquitted by the Courts.

Having examined the impugned order, no illegality, much less perversity, has been found therein, warranting interference by this Court.

Resultantly, the present petition stands dismissed.

24.09.2016
ajp

(RITU BAHRI)
JUDGE