IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2919 of 2015 (O&M)
Date of decision: 18.11.2016

Sandhya Mehta

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

Mr. A.P.S. Gill, AAG, Punjab.

Mr. D.C. Mittal, Advocate,
for respondent Nos.2 to 4.

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Ritu Bahri, J.

CRM-25744-2015

In view of the reasons mentioned in the application, same is allowed and delay of 122 days in filing of the present petition is condoned.

CRR-2919-2015

This petition has been filed against the judgment dated 16.01.2015 passed by the Additional Sessions Judge, Faridabad, dismissing the appeal filed by complainant-petitioner against the judgment dated 01.09.2011 passed by the Judicial Magistrate Ist Class, Faridabad, whereby accused-respondent Nos.2 to 4 have been acquitted of the charges framed against them under Sections 406, 498-A and 506 IPC.

Brief facts of the case are that an FIR No.86 dated 21.02.2005, under Sections 498-A, 406 and 506 IPC was registered at Police Station,

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Kotwali, Faridabad on the statement made by Sandhya-petitioner, wherein she has stated that her marriage was solemnized with Harish-respondent No.2 on 16.02.2003 at Faridabad. Soon after, the marriage, her in-laws started harassing and humiliating her on the pretext of bringing insufficient dowry. Parents of the complainant tried to reconcile the matter, but in vain. Accused-respondent A demand to open a car garage was made by Nos.2 to 4. When the complainant showed her inability to do so, she was maltreated by the accused persons. As per complainant, accused-respondent Nos. 2 to 4 had given her beatings. They also tried to strangulate her. However, the matter was patched up with the intervention of neighbours. Accused persons also tried to kill the complainant. But, she was saved as her cousin-Ved Ram knocked the door. In this background, the FIR was registered. On completion of investigation, challan was prepared and presented in the Court.

Copies of challan and other documents were supplied to the accused-respondent Nos. 2 to 4 free of costs, as envisaged under Section 207 Cr.P.C. Thereafter, finding a prima facie case, charges under Sections 406, 498-A and 506 IPC were framed against them, to which, they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Sandhya-complainant (PW-1), Smt. Geera (PW-2) and SI Shri Pal (PW-3). On conclusion of the prosecution evidence, statements of the accused-respondent Nos. 2 to 4 under Section 313 Cr. P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same and pleaded false implication. In defence, the accused examined Hans Raj, DRK (DW-1), Islammudin (DW-2), Satpal son of late Balwant Singh

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(DW-3) and Satpal son of Niyamat Ram (DW-4).

Trial Court, after going through the evidence led by the prosecution, acquitted the accused (respondent Nos.2 to 4) of the charges framed against them. Appeal against the said judgment was dismissed by the Additional Sessions Judge, Faridabad vide judgment dated 16.01.2015. Hence, this petition.

Heard.

Perusal of the impugned judgments shows that both the Courts below have taken into consideration the testimony of Complainant-Sandhya Mehta (PW-1), her mother Smt. Geeta (PW-2) and SI Shri Pal (PW-3) and came to a conclusion that the allegation made by the complainant was general in nature that she was repeatedly subjected to cruelty. But, no medical evidence, in this regard, was produced on record. Demand of money was not held to be a dowry, as it was merely a monetary assistance to start the business of Harish (husband of complainant). During her cross-examination, complainant admitted that her father-in-law had deposited Rs.25,000/- in a joint account of the complainant and her husband. From these funds a boutique was opened by the complainant, but it was closed after a short gap of 20 days. As per complainant, when she was being assaulted by all the accused persons, her cousin-Ved Pal reached at the spot and saved her from the clutches of the accused. But, neither this witness was named in the list of witnesses nor was examined by the prosecution. Smt. Geeta, mother of the complainant (PW-2) supported the version of the complainant. But her deposition was based on hear-say evidence, which could not be relied upon by the prosecution. Moreover, keeping in view that her father-in-law had financially supported her to open a boutique. With

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these observations, both the Courts below have acquitted accused-respondent Nos. 2 to 4 of the charges framed against them.

In the present case, all the family members of husband of complainant have been arrayed as accused in the FIR. This has become a general trend in the society to implead all the members of in-laws family in the matrimonial disputes. Reference can be made to a decision given by Hon'ble the Supreme Court in ***Preeti Gupta & another Vs. State of Jharkhand & another***, 210 (7) SCC 667, wherein it has been held that large number of complaints under Section 498-A IPC are not *bonafide*. Majority of such complaints are filed either on the advice of members of Bar or with their concurrence with exaggerated versions. While quashing a complaint relating to matrimonial dispute, Hon'ble the Supreme Court observed as under:-

> "30. It is a matter of common experience that most of these complaints under Section 498A Indian Penal Code are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even *bonafide* and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.
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> 31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should so ensure that one complaint should not lead to multiple cases."

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Similar view has been taken by this Court in ***Rajni Vs. State of Haryana and another,*** CRM-M-41402-2014 (decided on 29.02.2016), wherein it has been held that in a matrimonial dispute, there is a general tendency to implicate all the family members. Normally, unmarried sister-in-law has hardly any concern with the demand of dowry or harassment, but still she has been implicated.

As per consistent views of Hon'ble the Supreme Court crafted version of incidents are reflected in large number of complaints and petty quarrels cannot be termed as cruelty. Causing mental torture to the extent that it becomes unbearable, can be termed as cruelty.

In the present case, the evidence led by the prosecution do not satisfy the guidelines laid down by Hon'ble the Supreme Court, to come to a conclusion that accused-respondent Nos. 2 to 4 had committed cruelty towards the complainant during her matrimonial life. Accordingly, having examined the impugned judgments of acquittal, no illegality, much less perversity, has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

Resultantly, the present petition is dismissed.

(RITU BAHRI)
JUDGE

18.11.2016
ajp

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*

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